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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----  
ESSAR STEEL ALGOMA, INC.,  
Plaintiff,  
vs. Case No. 1:17-mc-00360-AT  
SOUTHERN COAL SALES  
CORPORATION,  
Defendant.  
-----

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Tuesday, October 30, 2018

Oral Deposition of STEPHEN WAYNE BALL,  
taken at the Law Offices Kelley Drye & Warren  
LLP, Washington Harbour, Suite 400, 3050 K  
Street NW, Washington, D.C., beginning at  
9:05 a.m., before Ryan K. Black, a Registered  
Professional Reporter, Certified Livenote  
Reporter and Notary Public in and for the  
District of Columbia.

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A P P E A R A N C E S:

THOMPSON HINE LLP

BY: KIP T. BOLLIN, ESQUIRE

LAURA WATSON SCHULTZ, ESQUIRE

3900 Key Center

127 Public Square

Cleveland, Ohio 4411420006

216.566.5500

kip.bollin@thompsonhine.com

laura.schultz@thompsonhine.com

Representing - The Plaintiffs

KELLEY DRYE & WARREN LLP

BY: MARK R. ROBECK, ESQUIRE

MELISSA E. BYORADE, ESQUIRE

Washington Harbour

Suite 400

3050 K Street, NW

Washington, DC 20007

202.342.8400

mrobeck@kelleydrye.com

mbyroade@kelleydrye.com

Representing - Defendants

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1 Whereupon --

2 STEPHEN WAYNE BALL,  
3 called to testify, having been first duly sworn  
4 or affirmed, was examined and testified as  
5 follows:

6 EXAMINATION

7 BY MR. BOLLIN:

8 Q. Good morning, Mr. Ball. We just met a  
9 minute ago, but, again, for the record my name  
10 is Kip Bollin. I'm counsel for Essar Steel  
11 Algoma, the plaintiff in this lawsuit.

12 Could you please state your name for  
13 the record?

14 A. Stephen Wayne Ball.

15 Q. And you are -- what's your  
16 relationship with Southern Coal Sales  
17 Corporation?

18 A. I'm vice president and general  
19 counsel.

20 Q. So you're a lawyer, correct?

21 A. Yes.

22 Q. Have you been deposed before?

23 A. I have, yes.

24 Q. And you've taken depositions before?

25 A. Not in a civil litigation setting.

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1 I've done it in administrative proceedings.

2 Q. Okay.

3 A. I, typically, try my best not to  
4 litigate, --

5 Q. God bless you.

6 A. -- but I have done it before, yes.

7 Q. Okay. So I'm going to dispense with  
8 going through how this works, because you're as  
9 well versed as me. Fair enough?

10 A. That's fair enough.

11 Q. When did you pass the Bar?

12 A. 2001.

13 Q. And where from?

14 A. West Virginia.

15 (Ball Exhibit No. 501, a document  
16 titled Second Amended Notice of Rule 30(b)  
17 Deposition of Defendant, was marked.)

18 BY MR. BOLLIN:

19 Q. I'm going to hand to you what's been  
20 marked as Exhibit 501, which is titled Second  
21 Amended Notice of Rule 30(b) Deposition of  
22 Defendant.

23 Have you seen this document before?

24 A. I have.

25 Q. And this is the notice of the

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1 deposition pursuant to which you've appeared  
2 today?

3 A. Correct.

4 Q. And have you prepared yourself to  
5 testify on these topics set forth in the notice?

6 A. Yes.

7 Q. How did you do so?

8 A. I met with our counsel, read  
9 deposition transcripts. I reviewed documents  
10 that have been provided as part of discovery,  
11 and had a few conversations with individuals at  
12 Southern Coal.

13 Q. And when you say you met with counsel,  
14 you're talking about the folks at Kelley Drye?

15 A. Yes, sir.

16 Q. How many times did you meet with them?

17 A. I met in person with them yesterday,  
18 have had numerous phone conversations with them,  
19 probably four or five phone conversations.

20 Q. In preparation for this deposition?

21 A. Yes.

22 Q. And how long did you meet yesterday?

23 A. About six-and-a-half hours, and then  
24 met for, approximately, an hour this morning.

25 Q. What deposition transcripts did you



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1 review?

2 A. I read portions of Kenny Lambert, Jr.,  
3 he goes by Tiger; Tim Fugit [phonetic]; Steve  
4 Sarver; Jay Justice.

5 Q. Did you review Summer Harrison's?

6 A. And some excerpts from Summer  
7 Harrison's, yes, sir.

8 Q. Did you pick the excerpts or did  
9 somebody else?

10 A. A little bit of both. I mean,  
11 there were certainly some excerpts that were  
12 intentionally shown to me, but then there were  
13 other parts that I chose what I read in the  
14 transcript.

15 Q. Okay. And what documents did you  
16 review?

17 A. I read a summary of the coal supply  
18 agreements, or who coal shipments had been made  
19 to. I reviewed a summary of bank account  
20 transactions, a few bank statements, the coal  
21 supply agreement, the first amendment to the  
22 coal supply agreement, the term sheet, the draft  
23 second amendment to the coal supply agreement,  
24 some of the third-party coal contracts that had  
25 been disclosed, I think [REDACTED] [REDACTED] and [REDACTED]

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1 Q. Anything else?

2 A. If anything else comes to mind, I'll  
3 tell you. I've -- there were a lot of documents  
4 I reviewed. That's -- just going through it in  
5 my head, that's what comes to mind first.

6 Q. Okay. You said you also had  
7 conversations with individuals in preparation  
8 for your deposition?

9 A. Yes.

10 Q. Who were they?

11 A. I spoke to Summer Harrison, Steve  
12 Sarver and Jay Justice.

13 Q. What did you speak with Summer  
14 Harrison about?

15 A. I just had a few questions about  
16 trying to ascertain bank accounts, who was  
17 the holder of the bank account. Frankly, that  
18 related to your all's amended complaint. There  
19 were some account numbers that were referenced  
20 in there, so trying to figure out who those  
21 were.

22 I spoke to Steve Sarver just  
23 to understand a few things he said in his  
24 deposition relating to sampling, and Jay Justice  
25 and I discussed production and anticipated

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1 production from 2015 through 2017.

2 Q. Okay. Did you discuss anything else  
3 with Jay Justice?

4 A. No.

5 Q. Did you say for 2015 or 2016?

6 A. '15, '16 and '17.

7 Q. Okay. Thank you.

8 Going through the documents in  
9 this case, I became aware that you also hold  
10 positions with other Justice-related entities,  
11 is that fair?

12 A. That's fair. Yes, sir.

13 Q. Okay. I'd like to know what those  
14 positions are.

15 A. Okay.

16 Q. Do you happen to know them all off the  
17 top of your head?

18 A. Sure.

19 Q. We'll give you a try. Okay.

20 A. So for Southern Coal Corporation  
21 and all of its affiliates, which would include  
22 Southern Coal Sales Corporation, today I'm vice  
23 president and general counsel.

24 Q. You said today.

25 A. Yeah. And, historically, I've also

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1 served as vice president of operations.

2 Q. What were your positions with those  
3 companies in 2016?

4 A. In 2016, I would have been secretary  
5 and general counsel.

6 Q. Were you VP of Ops in 2016, as well?

7 A. Not in 2016.

8 Q. So secretary and general counsel?

9 A. Yes.

10 MR. BOLLIN: And just so we're clear  
11 which companies we're talking about, I'm going  
12 to go ahead and hand you an exhibit.

13 (Ball Exhibit No. 502, an  
14 organizational chart for Southern Coal  
15 Corporation, was marked.)

16 BY MR. BOLLIN:

17 Q. This is being marked as Exhibit 502.

18 First of all, do you recognize Exhibit  
19 502?

20 A. Yes.

21 Q. What is it?

22 A. It's an organizational chart for  
23 Southern Coal Corporation.

24 Q. Okay. That's the first page. What's  
25 the second page?

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1           A.    The second page is an organizational  
2           chart for Bluestone Resources, Inc.

3           Q.    A moment ago you testified that in  
4           2016 you were secretary and general counsel for  
5           Southern Coal Corporation and all of its  
6           affiliates; is that right?

7           A.    Correct.

8           Q.    Is the first page in Exhibit 502 a  
9           full and complete list of the affiliates that  
10          you were secretary and general counsel for in  
11          2016?

12               MR. ROBECK:   Well, I'm going to  
13          object, Kip, just to the question.   But -- I  
14          don't think you intend this, but you've also  
15          got Bluestone to go for.   And you've limited  
16          your question to just Southern Coal Corporation,  
17          so we don't know if he had the same position at  
18          Bluestone.

19               MR. BOLLIN:   Right.   No, I was just  
20          doing the first page first.

21               MR. ROBECK:   Okay.   That's what I  
22          figured, but the question --

23               THE WITNESS:   I believe so, yes.

24          BY MR. BOLLIN:

25               Q.    Turning to the second page of Exhibit

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1           502, the Bluestone Resources, Inc., org chart,  
2           were you secretary and general counsel for all  
3           of these entities on the second page of Exhibit  
4           502, as well, in 2016?

5           A.     Yes.

6           Q.     Did you hold any other positions, in  
7           addition to secretary and general counsel, for  
8           any of these entities in Exhibit 502 in 2016?

9           A.     No.

10          Q.     Were you also -- did you also hold  
11          officer positions for any other Justice-related  
12          entities in 2016?

13          A.     Yes.

14          Q.     What were those?

15          A.     James C. Justice Companies, Inc.

16          Q.     What were your positions for James C.  
17          Justice Companies, Inc.?

18          A.     Secretary and general counsel.  
19                 Kentucky Fuel Corporation.

20          Q.     And your role there?

21          A.     Secretary and general counsel.

22                 MR. ROBECK: And we're talking 2016  
23          again, right?

24                 MR. BOLLIN: Correct.

25                 THE WITNESS: A&G Coal Corporation,

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1 secretary and general counsel; Tams Management,  
2 Inc., secretary and general counsel; Greenbrier  
3 Hotel Corporation, secretary and general  
4 counsel.

5 BY MR. BOLLIN:

6 Q. Did you have a role with Coal Mountain  
7 Mining Company Limited Partnership LLP?

8 A. No. That entity is not owned by the  
9 Justice Family.

10 Q. Do you know who owns it?

11 A. I do not.

12 Q. Did you have a role with Justice  
13 Family Farms LLC in 2016?

14 A. I would have served as general  
15 counsel. Justice Family Farms does not have  
16 officers, although, typically, our LLCs allow  
17 for officers in their operating agreements,  
18 Justice Family Farms has managers which are  
19 James C. Justice, III, and his sister Jillian  
20 Justice.

21 Q. And your role was as general counsel  
22 to Justice Family Farms LLC?

23 A. I would serve as their general  
24 counsel. It's an inactive entity, but if  
25 something were to come up with Justice Family

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1 Farms, I would definitely serve as their general  
2 counsel.

3 Q. It's inactive now, or it was inactive  
4 in 2016?

5 A. Both.

6 Q. Was it inactive in 2015?

7 A. I believe so.

8 Q. In 2016 did you have a role with  
9 Bluestone Energy Sales Corporation?

10 A. I would have been secretary and  
11 general -- well, I would have been general  
12 counsel for Bluestone Energy Sales.

13 Q. Do you know who the officers and  
14 directors of Bluestone Energy Sales Corporation  
15 were?

16 A. In 2016?

17 Q. Yes.

18 A. President would have been James C.  
19 Justice, II. Vice president would have been  
20 James C. Justice, III. Treasurer would  
21 definitely be James T. Miller. I could check  
22 this for you, either myself or James T. Miller  
23 would be the secretary. I can't recall at this  
24 moment, though.

25 Q. Did you have a role with Mechel



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1           Bluestone in 2016?

2           A.    We changed the name of that to  
3           Bluestone Mineral.

4           Q.    And when did you do that?

5           A.    Shortly after we reacquired Bluestone  
6           in February of 2015. I can't recall the -- I  
7           can't recall the specific date, but it would  
8           have been in the first half of 2015.

9           Q.    So Mechel Bluestone and Bluestone  
10          Mineral, Inc., are the same entity?

11          A.    Correct.

12          Q.    Okay. Did you have a role with that  
13          company?

14          A.    The same as all Bluestone subsidiaries  
15          and affiliates, general counsel and secretary.

16          Q.    We've gone through all your roles in  
17          2016. Did you have the same roles with the same  
18          companies in 2015?

19          A.    Yes.

20          Q.    And did you have the same roles with  
21          the same companies in 2016 -- I'm sorry, 2017?

22          A.    No. My title changed in January of  
23          2017.

24          Q.    What did your title become in January  
25          of 2017?

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1           A.    Vice president and general counsel,  
2           and he goes by Terry, but James, Terry Miller,  
3           replaced me as secretary. So he's now secretary  
4           and treasurer.

5           Q.    Of all of the entities set forth in  
6           Exhibit 502?

7           A.    Yes.

8           Q.    Did you become vice president general  
9           counsel of all of the entities set forth in  
10          Exhibit 502 on the same date in 2017?

11          A.    Approximately. There was a shift due  
12          to James C. Justice, II, becoming Governor of  
13          West Virginia, and so he had to step down as a  
14          day-to-day officer of the entities. And when  
15          he did that, we had a change. James C. Justice,  
16          III, became president since James C. Justice,  
17          II, was no longer president. I became vice  
18          president, and Terry Miller became secretary and  
19          treasurer. The reason I can't say for sure that  
20          that all happened on the exact same day is, it  
21          took a few days to get that papered, --

22          Q.    Okay. It --

23          A.    -- but all around the approximate same  
24          time.

25          Q.    Okay. Thank you. I appreciate that.

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1                   For all of the entities identified in  
2                   Exhibit 502, did they share the same officers  
3                   and directors in 2016?

4                   A.    I think it's fair to say all of the  
5                   corporations did. I think some of the LLCs,  
6                   just the nomenclature would have had a manager  
7                   or a member versus directors and officers.

8                   Q.    Were the managers and directors of the  
9                   LLCs the same individuals who were officers and  
10                  directors of the corporations in Exhibit 502?

11                  A.    The managers would be the same as the  
12                  directors.

13                  Q.    Who were the managers of James  
14                  C. -- I'm sorry, Justice Family Farms, LLC?

15                  A.    In what year?

16                  Q.    2016.

17                  A.    James C. Justice, II, and James C.  
18                  Justice, III.

19                  Q.    And who were the directors of the  
20                  corporation set forth in Exhibit 502 in 2016?

21                  A.    James C. Justice, II, and James C.  
22                  Justice, III.

23                  Q.    And who were the managers of the LLC  
24                  set forth in Exhibit 502 in 2016?

25                  A.    I just want to make sure, what was

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1 your last question?

2 MR. BOLLIN: Could you read it?

3 THE REPORTER: Two questions ago?

4 THE WITNESS: Yeah. I feel like --  
5 did he ask about 2016 twice?

6 BY MR. BOLLIN:

7 Q. I did, but the first one was for the  
8 corporations and the second one was for the  
9 LLCs.

10 A. Okay. I thought the managers had been  
11 asked twice.

12 Q. It may have. I apologize.

13 A. Okay. It's James C. Justice, II, and  
14 James C. Justice, III.

15 Q. So James C. Justice, II, and James  
16 C. Justice, III, are the directors of all the  
17 corporations set forth in Exhibit 502 and the  
18 managers of all the LLCs set forth in Exhibit  
19 502.

20 MS. BYROADE: Objection to the extent  
21 you're asking about the current -- your  
22 question's about the present.

23 BY MR. BOLLIN:

24 Q. In 2016.

25 A. But with one caveat, like, JCY Coal

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1 Group, for example, is member managed instead  
2 of manager managed, so Bluestone Mineral, as its  
3 sole member, would manage it. And same thing  
4 with James C. Justice Companies LLC, it's  
5 member-managed, and so it would be controlled by  
6 JCJ Coal Group.

7 Q. On the first page?

8 A. Yeah. I think on the first page all  
9 those LLCs are manager managed.

10 Q. And then on the second page, the LLCs  
11 are managed by the corporation that owns the  
12 LLC?

13 A. Correct. As its sole member.

14 Q. And so, for example, James C. Justice  
15 Companies LLC is managed by JCJ Coal Group LLC?

16 A. Correct.

17 Q. Who is JCJ Coal Group LLC managed by?

18 A. Bluestone Mineral, Inc.

19 Q. And who is Bluestone Mineral, Inc.,  
20 managed by?

21 A. As a corporation, its directors and  
22 officers.

23 Q. Okay. Who are its directors and  
24 officers?

25 A. James C. Justice, II, and James C.

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1 Justice, III, are the directors in 2016. And  
2 the officers were James C. Justice, II, was  
3 president. James C. Justice, III, was executive  
4 vice president. I was secretary. James T.  
5 Miller was treasurer.

6 Q. And the officers you just identified,  
7 are those the same officers for all of the  
8 corporations identified in Exhibit 502, both  
9 first and second page --

10 MR. ROBECK: Objection. Asked and  
11 answered.

12 BY MR. BOLLIN:

13 Q. -- in 2016?

14 A. Yes.

15 Q. For Southern Coal Sales Corporation,  
16 you were a secretary in 2016; is that right?

17 A. Correct.

18 Q. Were there stock certificates issued  
19 by Southern Coal Sales Corporation to its owner?

20 A. Typically, we do issue stock  
21 certificates. There would be a single  
22 certificate issued to Southern Coal Corporation.

23 Q. Do you know if that happened?

24 A. I don't know right off the top of my  
25 head if that happened, but I'm just saying, as

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1 a matter of course, we typically do issue  
2 certificates.

3 (Ball Exhibit No. 503, an Agreement in  
4 Lieu of Annual Meeting of Sole Shareholder of  
5 Southern Coal Sales Corporation for years  
6 2013 through 2018, was marked.)

7 BY MR. BOLLIN:

8 Q. I'm handing you what's been marked as  
9 Exhibit Number 503. Do you recognize the  
10 exhibit?

11 A. Yes.

12 Q. What is it?

13 A. It's an Agreement in Lieu of Annual  
14 Meeting of Sole Shareholder of Southern Coal  
15 Sales Corporation. The first page is for 2013,  
16 and the second page is the same document for  
17 2014. Third page, same document for 2015.  
18 Fourth page, same document for 2016. Fifth page  
19 same document for 2017. And the last page is  
20 same document for 2018.

21 Q. Didn't Southern Coal Sales Corporation  
22 change its name?

23 A. It did.

24 Q. And what's its current name?

25 A. Nevada Holdings.

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1 Q. When did that happen?

2 A. I think it was in January of 2017.

3 Q. Okay. I see here January 17, 2017,  
4 does that sound about right?

5 A. That sounds about right, yes.

6 Q. Okay. So why does the last page of  
7 Exhibit 503 state that it's the Agreement in  
8 Lieu of Annual Meeting of Sole Shareholder of  
9 Southern Coal Sales Corporation?

10 A. That's a mistake.

11 Q. Did you create the documents set forth  
12 in Exhibit 503?

13 A. I would have created the earlier  
14 years. In the latter years, probably someone  
15 else would have done that.

16 Q. And how can we tell the difference?

17 A. I just know because I know the ones  
18 that I did. And in 2013, '14 and '15 I would  
19 have been the only person doing that.

20 Q. Okay.

21 A. In recent years, I've had some help.  
22 There's a gentleman by the name of Charlie  
23 Hinthorne that works in our finance department,  
24 but he helps me from time to time with  
25 administrative matters. And when we do



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1 the annual minutes, he helps me prepare them  
2 sometimes.

3 Q. Okay. So you prepared 2013, '14 and  
4 '15?

5 A. Yeah. I'm comfortable saying I would  
6 have definitely prepared those years.

7 Q. Now, each one of those has an  
8 electronic signature, right?

9 A. That's definitely my signature.  
10 It could be electronic. I may have used  
11 electronic.

12 Q. I mean, it's identical from year to  
13 year, correct?

14 A. It appears to be, yeah.

15 Q. So first of all, why did you have an  
16 agreement in lieu of an annual meeting?

17 A. Since I've been around the companies,  
18 that's just how it's always been done with it  
19 being a privately held business, the sole  
20 shareholders being either directly or indirectly  
21 the Justice family, that's just  
22 the way we choose to do it.

23 Q. Do you kind -- do you discuss -- well,  
24 first of all, the sole shareholder was Southern  
25 Coal Sales Corporation, right?

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1 A. Southern Coal Corporation.

2 Q. Oh, I'm sorry. You're right.

3 The sole shareholder of Southern Coal Sales  
4 Corporation was Southern Coal Corporation;  
5 is that right?

6 A. Correct. That's right. Yes.

7 Q. And who directed you to create this  
8 Agreement in Lieu of Annual Meeting?

9 A. Typically, I would ask either Jay  
10 Justice or Jim Justice -- I would tell them  
11 that it was time to do the annual minutes, and  
12 I would ask them if there were any changes to  
13 officers or directors. And, typically, the  
14 answer was, no, it's the same as what we had  
15 last year, and then I would take care of it  
16 from there.

17 Q. Did you prepare Agreements in Lieu of  
18 Annual Meetings for all of the Justice entities  
19 for which you served as secretary at the same  
20 time every year?

21 A. Generally speaking, yes.

22 Q. Each of these first three years, in  
23 Exhibit 503, 2013, 2014 and 2015, each were  
24 dated the 1st of May; --

25 A. Yeah.

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1 Q. -- is that right?

2 A. Correct.

3 Q. Were these documents actually created  
4 on the 1st of May?

5 A. Somewhere thereabouts.

6 Q. There was a form, you used the same  
7 form and changed the date every year?

8 A. Yes.

9 Q. And then in 2016, you had some help  
10 from Charlie Hinthorne?

11 A. It's possible.

12 Q. Okay.

13 A. I just know that in '16 Charlie  
14 started helping me with minute books and keeping  
15 up minutes and things of that nature.

16 Q. And so you don't know exactly who or  
17 when Exhibit 503 -- strike that. It's poorly  
18 phrased.

19 Do you know exactly who prepared or  
20 when the May 1st, 2016, Agreement in Lieu of  
21 Annual Meeting document was created?

22 A. No.

23 Q. I notice in 2017 we've shifted, and  
24 instead of it being May of the year we've now  
25 got January 15th of 2017?

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1 A. Correct.

2 Q. Okay. And why the change?

3 A. That was precipitated by Mr. Justice  
4 being sworn in as Governor. James C. Justice,  
5 II, becoming Governor of West Virginia.

6 Q. And who are the new directors in 2017?

7 A. James C. Justice, III, and Jillian  
8 Justice.

9 Q. And James C. Justice, III, goes by  
10 Jay, right?

11 A. Correct.

12 Q. Okay. And did this correspond with  
13 the change in ownership of the Southern Coal  
14 Corporation?

15 A. Ownership did not change.

16 Q. Okay. Who was the owner of Southern  
17 Coal Corporation?

18 A. James C. Justice, II, James C. Justice,  
19 III, and Jillian Justice.

20 Q. Okay. Did the officers and directors  
21 of -- well, I think we've already established  
22 that. Strike that.

23 For the 2017 and 2018 Agreements in  
24 Lieu of Annual Meeting that are set forth in  
25 Exhibit 503, is it fair to say that you don't

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1 know who prepared those?

2 A. I think I did the one in 2017, because  
3 I was definitely involved with getting all of  
4 this documented when Mr. Justice took office  
5 as Governor. And I don't recall in 2018.

6 Q. The 1st of January 2018 was a holiday,  
7 right?

8 A. Yes.

9 Q. Do you believe that the Agreement in  
10 Lieu was created on the 1st of January 2018?

11 A. I don't know.

12 (Ball Exhibit No. 504, a document  
13 titled Agreement in Lieu of Annual Meeting of  
14 Board of Directors of Southern Coal Sales  
15 Corporation from 2013 through 2018, was marked.)  
16 BY MR. BOLLIN:

17 Q. I'm handing you what's been marked as  
18 Exhibit 504.

19 Do you recognize this document?

20 A. I do, yes.

21 Q. And what is it?

22 A. It's the Agreement in Lieu of Annual  
23 Meeting of Board of Directors of Southern Coal  
24 Sales Corporation. The first page is for 2013,  
25 and it continues on for each year through 2018

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1 being the last page.

2 Q. And were these Agreements in Lieu  
3 created by you or at your direction?

4 A. Yes.

5 Q. And are you able to identify which of  
6 these documents you created?

7 A. Not specifically, but it would be  
8 consistent with the answers I just gave, which  
9 I'm fairly confident in saying '13, '14 and '15  
10 would have definitely been me. I think '17  
11 also would have been me, given the special  
12 circumstances. I can't say for sure on '16 or  
13 '18.

14 Q. Were these Agreements in Lieu created  
15 on or about the date set forth, or were they  
16 created after the fact?

17 A. Typically, they would be on or about  
18 the date set forth.

19 Q. Okay. Were any of these created much  
20 past the date set forth on the document?

21 A. Not that I'm aware of.

22 Q. Okay. Do you know whether any of the  
23 Agreements in Lieu in Exhibit 503 were created  
24 on dates much after the date set forth on each  
25 agreement in lieu?

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1 A. Not that I'm aware of.

2 Q. After Mr. Hinthorne creates an  
3 Agreement in Lieu of Annual meeting, does he  
4 show it to you, or does he just put it in the  
5 file? What's he do?

6 A. It could be both. Sometimes he'll  
7 ask me to look it over, and there have been  
8 instances where he also just files it. He and  
9 I will have a conversation before we start  
10 updating the minutes for the year, and if he has  
11 any questions about whether there have been any  
12 changes or anything like that, we go through  
13 those. And then, you know, he prepares them.  
14 It's happened both ways. There's been times  
15 where I don't see them again, and then there's  
16 certainly been times where he's asked me to  
17 double-check them.

18 Q. Going back to Exhibit 503, the 2016  
19 agreement, do you know when this agreement was  
20 created?

21 A. The 2016 one?

22 Q. Yes.

23 A. Not specifically, no. Typically, they  
24 would be on or about the date in the agreement,  
25 though.

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1 Q. Right.

2 A. If it wasn't exactly May 1st, it would  
3 be close to it.

4 Q. So you're confident that it wasn't  
5 created months after May 1st, 2016?

6 A. Yes.

7 Q. And how do you know that?

8 A. Just by experience. I mean,  
9 typically, we do these at the same time each  
10 year, and I would expect -- I don't remember any  
11 extraordinary circumstances that year, so I  
12 would expect it to be around that date.

13 Q. And you create all the Agreements in  
14 Lieu for all of the corporations at the same  
15 time?

16 A. Yes.

17 MR. BOLLIN: I'm sorry to do this, but  
18 can we take a short break?

19 THE WITNESS: Sure.

20 (Recess taken.)

21 BY MR. BOLLIN:

22 Q. Turning back to Exhibit 502, the org  
23 chart, --

24 A. Okay.

25 Q. -- does this org chart reflect the



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1 organization of Southern Coal Corporation now or  
2 in 2016?

3 A. I'm not aware of any changes for  
4 Southern Coal Corporation between 2016 and 2017,  
5 so I think it would be yes to both years.

6 Q. Okay. How about the second page, is  
7 this reflective of the organization of Bluestone  
8 Resources, Inc., now or in the past?

9 A. Both.

10 Q. Okay. So it's consistent? It hasn't  
11 changed?

12 A. Correct.

13 Q. Bluestone Resources, Inc., who are the  
14 owners?

15 A. James C. Justice, II, and James C.  
16 Justice, III.

17 Q. Who are the officers?

18 A. What timeframe?

19 Q. 2016. Thank you.

20 A. James C. Justice, II, was president.  
21 James C. Justice, III, was executive vice  
22 president. I was secretary, and Terry Miller  
23 was treasurer.

24 Q. Who were the directors?

25 A. James C. Justice, II, and James C.

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1 Justice, III,

2 Q. And then that all changed in January  
3 of 2017?

4 A. Correct.

5 Q. And how did it change?

6 A. The ownership stayed the same, but the  
7 directors changed to James C. Justice, II, and  
8 Jillian Justice. President changed to James C.  
9 Justice, III. Vice president changed to myself.  
10 And James T. Miller became secretary and  
11 treasurer.

12 Q. Do all of the Southern Coal  
13 Corporation affiliates identified on Page 1  
14 of Exhibit 502 have the same employees?

15 A. I don't understand. You mean --

16 Q. Do they share the same employees?

17 A. Well, today all of these companies are  
18 idled when they were operating; for example,  
19 Four Star Resources was a surface mine, it,  
20 certainly, would have different employees than  
21 Infinity Energy, Inc., would have, which is a  
22 separate surface mine.

23 Q. Okay. So at the mines themselves, the  
24 employees were different?

25 A. Correct.

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1           Q.    Okay.  What about the main office,  
2           were the employees the same?

3           A.    It would depend.  Sometimes, like, an  
4           accountant would be on Infiniti Energy, Inc.'s,  
5           payroll.  There are other times that certain  
6           overhead services such as accounting, legal,  
7           engineering, those employees would be on the  
8           parent company and then they would be shared  
9           with the subsidiaries.

10          Q.    How do you decide when to share  
11          employees between the parent company, Southern  
12          Coal Corporation, and the subsidiaries?

13          A.    I think it varies from time to time,  
14          but, typically, it depends on whether the  
15          subsidiary would be large enough to justify  
16          having a single accountant or a single engineer  
17          solely dedicate to that entity.  If, for  
18          example, it wasn't large enough or didn't have  
19          enough production to justify having its own  
20          engineering staff, then, in that instance, that  
21          would be shared from the corporate or parent  
22          company level.

23          Q.    Okay.  And the parent or corp -- well,  
24          who is the parent or corporate level entity that  
25          shares their employees with the subsidiaries?

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1           A.    For this group, it would be Southern  
2           Coal Corporation.

3           Q.    So Southern Coal Corporation would  
4           share its employees with its subsidiaries so  
5           that they could do whatever work they needed to  
6           get done?

7           A.    Yes.

8           Q.    Okay. Was Southern Coal Corporation  
9           compensated for that?

10          A.    I don't know if I understand the  
11          question.

12          Q.    Well, was there an agreement? Was  
13          there an employee-sharing agreement between  
14          Southern Coal Corporation and its subsidiaries?

15          A.    Nothing formalized, no.

16          Q.    Okay. Rather, whenever one of the  
17          summer -- when -- strike that.

18                When one of the subsidiaries required  
19          services, it could turn to Southern Coal  
20          Corporation, who would provide them to the  
21          subsidiary free of charge, correct?

22          A.    Yes. And, like I said, this,  
23          typically, related to what I would call either  
24          kind of professional or administrative-type  
25          services. At the mine site, they definitely

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1 would have been employed by the operating  
2 company. This was -- the main three functions  
3 would be accounting, legal and engineering.

4 Q. Were there individuals that were  
5 employees of all of these entities?

6 A. Not that I'm aware of.

7 Q. Okay. What about Summer Harrison, who  
8 did she work for?

9 A. It changes from time to time.

10 Q. Okay. In 2016, do you know who she  
11 worked for?

12 A. Not specifically.

13 Q. I asked Summer and she didn't know  
14 either.

15 A. That makes me feel a little better.

16 Q. Turning to the second page in  
17 Exhibit 502, those entities and subsidiaries of  
18 Bluestone Resources, Inc., did you follow the  
19 same basic pattern for Bluestone Resources,  
20 Inc.'s, subsidiaries? Did they use the services  
21 and borrow employees from Bluestone Resources,  
22 Inc., as needed?

23 A. The concept was similar. The employer  
24 was Bluestone Industries, Inc., for this group.

25 Q. Okay. So Bluestone Industries, Inc.,

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1 is a subsidiary of Bluestone Mineral, Inc.,  
2 right?

3 A. Correct.

4 Q. Okay. And Bluestone Mineral, Inc.,  
5 is the only subsidiary of Bluestone Resources,  
6 Inc.?

7 A. Correct.

8 Q. Okay. And Bluestone Industries,  
9 Inc., employed all of the employees who  
10 performed services for the entities identified  
11 on Page 2 of Exhibit 502?

12 MR. ROBECK: Objection; form.

13 THE WITNESS: It would be similar  
14 to what we discussed with Southern Coal, the  
15 services that relate to corporate office-type  
16 functions, accounting, engineering, legal. I  
17 include payroll with accounting. But mine site  
18 employees would be employed by the particular  
19 operating entity.

20 BY MR. BOLLIN:

21 Q. Okay. Did Bluestone Resources, Inc.,  
22 have any of its own employees?

23 A. No.

24 Q. Did Bluestone Mineral, Inc., have any  
25 of its own employees?

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1 A. No.

2 Q. Who did the work of those entities?

3 A. The -- the Blue -- the people employed  
4 by Bluestone Industries, Inc.

5 Q. Okay.

6 A. Bluestone Mineral is just a holding  
7 company, so there would be nothing to do, other  
8 than the things we've talked about, annual  
9 filings with the Secretary of State's Office,  
10 things of that nature. But there wouldn't be  
11 any operational activity within Bluestone  
12 mineral.

13 Q. All the entities identified in  
14 Exhibit 502, did they operate out of -- are they  
15 headquartered out of the same office?

16 A. Yes.

17 Q. And what is that office?

18 A. 302 South Jefferson Street, Roanoke,  
19 Virginia.

20 Q. Now, we've talked about some other  
21 entities that are not on this organizational  
22 chart, and I'm going to try to do this  
23 efficiently and painlessly, but we'll see  
24 how it goes.

25 A. Okay.

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1           Q.   First of all, do these other  
2           entities, James C. Justice Companies, Inc.,  
3           Tams Management, Inc., Bluestone Energy Sales  
4           Corporation, A&G Coal Corporation and Justice  
5           Family Farms LLC, are they also headquartered in  
6           the same place?

7           A.   Yes.

8           Q.   Do those entities I just identified  
9           share the same professional staff as the  
10          entities set forth on Exhibit 502?

11          MR. ROBECK: Can you read that list  
12          again, I'm sorry, for me?

13          MR. BOLLIN: Sure.

14          James C. Justice Companies, Inc.,  
15          Tams Management, Inc., Bluestone Energy Sales  
16          Corporation, A&G -- that's A ampersand G -- Coal  
17          Corporation and Justice Family Farms LLC.

18          BY MR. BOLLIN:

19          Q.   Do they --

20          A.   I'm sorry, I was going to say, can you  
21          remind me of the question? Sorry.

22          Q.   Do they share a headquarters with the  
23          entities identified in Exhibit 502?

24          MS. BYROADE: On the second page of  
25          that exhibit or --



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1 MR. BOLLIN: Both.

2 THE WITNESS: Yes.

3 BY MR. BOLLIN:

4 Q. Let me ask you a quick question about  
5 Coal Mountain Mining Company Limited Partnership  
6 LLP. You said that the Justice entities do not  
7 own that company, right?

8 A. Correct.

9 Q. And you don't know who does?

10 A. Not aware of it.

11 Q. Was there a time when one of the  
12 Justice entities did own Coal Mountain?

13 A. Not that entity.

14 Q. Okay. What did they --

15 A. I mean, Coal Mountain, as it's  
16 generally known as an operation, the Justice  
17 entities owned Coal Mountain Surface Mine  
18 operation through the entity Dynamic Energy,  
19 Inc., which is on the second page of Exhibit  
20 502, but that entity I have no familiarity with.

21 Q. Okay. So Dynamic Energy, Inc., on the  
22 second page of Exhibit 502, is a subsidiary of  
23 Bluestone Mineral, Inc., right?

24 A. Correct.

25 Q. Okay. And that was the entity that

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1 owned Coal Mountain Mine?

2 A. The Coal Mountain Number 1 Surface  
3 Mine.

4 Q. Okay. The Dynamic Energy, Inc.,  
5 entity still exists today but is inactive?

6 A. Correct.

7 Q. When did it become inactive?

8 A. January of 2017.

9 Q. And is that when you sold Coal  
10 Mountain Mine?

11 A. Correct. I believe the date was  
12 January 27th.

13 Q. To whom did Dynamic Energy Inc., sell  
14 Coal Mountain?

15 A. It was a group called [REDACTED]

16 [REDACTED].

17 Q. Is that a Justice-related entity?

18 A. No. [REDACTED] formed  
19 some special-purpose entities for the purpose of  
20 the acquisition. I believe their name was [REDACTED]  
21 [REDACTED] I'm assuming for Coal Mountain, but I  
22 can't recall their entity's names specifically.  
23 I know the parent group was called [REDACTED]

24 [REDACTED].

25 Q. Do you recall the sale price?

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1           A.    There were a couple different  
2           components to the sale price.  There was a  
3           preparation plant that was not owned by Dynamic  
4           Energy.  It was owned by National Resources.  
5           Its component of the sales price was [REDACTED]

6           [REDACTED]  
7           Q.    Is that a Justice-related entity?

8           A.    It's on Page 2 of Exhibit 502.

9           MR. ROBECK:  So, Steve, is the  
10          amount confidential, or is the sales price  
11          confidential?

12          MR. BOLLIN:  We can mark it attorneys'  
13          eyes only.

14          THE WITNESS:  I mean, the agreement  
15          definitely has a confidentiality provision, if  
16          we can do that.  That's a fair point.

17          BY MR. BOLLIN:

18          Q.    Okay.  So I'm sorry, the prep plant  
19          was an asset of National Resources, Inc.?

20          A.    Correct.

21          Q.    And that sold for [REDACTED]?

22          A.    Correct.

23          Q.    Okay.

24          A.    The surface mine permits and leases,  
25          and there was some owned property, as well, it

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1 was owned by Dynamic Energy, the purchase price  
2 -- I could be off slightly on this, but it was  
3 in the neighborhood of [REDACTED].

4 Q. And then how did you wind up the  
5 Dynamic Energy, Inc., entity?

6 A. It really doesn't have any -- it has  
7 a couple leases left in its name for coal seams  
8 that weren't acquired by [REDACTED]  
9 [REDACTED] but -- it's still out there because  
10 it's a lessee, but it has no operational  
11 activity.

12 Q. Where did the proceeds of the sale go?

13 A. Most of it went to Carter Bank &  
14 Trust, who has a loan facility with Bluestone  
15 Resources. And then as part of our 2015  
16 transaction with [REDACTED] we owe [REDACTED] percent  
17 of the purchase price to them, so they received  
18 [REDACTED] percent of the proceeds.

19 Q. I'm sorry. Who's the them?

20 A. [REDACTED]

21 Q. Who owed [REDACTED] money?

22 A. Bluestone Resources.

23 Their agreement has a provision that,  
24 if you sell one of the assets or companies that  
25 you acquired from that -- that we acquired from

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1           them in 2015, if that sale occurs in the first  
2           five years, you owe them [REDACTED] percent of the  
3           sale price.

4                     It goes down between years 5  
5           and 10. I don't remember what it drops to.  
6           But, obviously, this was within the first five  
7           years so the [REDACTED] percent applied.

8           Q.     Okay. You said that Bluestone  
9           Resources had a credit facility with Carter  
10          Bank?

11          A.     Correct.

12          Q.     Okay. And the sale of Dynamic Energy,  
13          Inc.'s, Bluestone -- I'm sorry. And the sale  
14          of Dynamic Energy, Inc.'s, Coal Mountain Mine  
15          resulted in proceeds that went to Bluestone  
16          Resources, Inc.?

17          A.     To get the blanket lien released that  
18          Carter Bank had filed, to get a partial release  
19          of that, obviously, some proceeds had to go to  
20          them. The facility was larger than the amount  
21          that went to them, so it was a partial release.

22                     There were some other things. When  
23          we reacquired Bluestone in 2015, [REDACTED] had  
24          incurred close to \$ [REDACTED] of tax liabilities  
25          with the State of West Virginia, and to transfer

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1 clean title [REDACTED], there  
2 were about \$[REDACTED] in taxes that had to be  
3 paid. The other 11 did not relate,  
4 specifically, to dynamic.

5 Q. All right. I'm going to back up just  
6 a second, and I'll probably ask a couple  
7 questions I asked previously, because I've  
8 forgotten the answers, so I apologize, --

9 A. Okay.

10 Q. -- but most of them will be new.

11 A. Okay.

12 Q. So the owner of James C. Justice  
13 Companies, Inc., is James C. Justice, II, and  
14 James C. Justice, III?

15 A. And Jillian Justice, for James C.  
16 Justice Companies, Inc.

17 Q. Okay. Do they have any subsidiaries?

18 A. Yes.

19 Q. What are those subsidiaries?

20 A. Justice Family Farms LLC, that you  
21 asked before about earlier; Southeast Cotton,  
22 Inc.; Wilcox Industries, Inc. I feel like I'm  
23 missing one. I'm happy to supplement this  
24 answer when I can look, but I think that's --

25 Q. If you think of one later, let me

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1 know.

2 A. Yeah. I think that's it, but maybe a  
3 plus one.

4 Q. Who are the directors of Southeast  
5 Cotton, Inc., and Wilcox Industries, Inc.?

6 A. What timeframe?

7 Q. 2016.

8 A. James C. Justice, II, and James C.  
9 Justice, III.

10 Q. And then that changed in 2017?

11 A. Correct.

12 Q. And who became the officers -- I'm  
13 sorry, the directors in 2017?

14 A. James C. Justice, III, and Jillian  
15 Justice.

16 Q. And who were the officers of SE  
17 Cotton, Inc., and Wilcox Industries, Inc., in  
18 2016?

19 A. James C. Justice, II, was president.  
20 James C. Justice, III, was vice president. I  
21 was secretary. James T. Miller treasurer.

22 Q. And that was for both entities?

23 A. Correct.

24 Q. Were those entities also headquartered  
25 at the same address in Virginia as all the other

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1 entities we've discussed here today?

2 A. Yes.

3 Q. I think earlier you already indicated  
4 that the members of the Justice Family Farms LLC  
5 were Jay and Jillian Justice; is that right?

6 A. If I said that I misspoke.

7 Q. I may have misinterpreted.

8 A. Because it's a wholly owned subsidiary  
9 of James C. Justice Companies.

10 If I said that, --

11 Q. You may not have.

12 A. -- let's clear it up.

13 They are the managers of Justice  
14 Family Farms.

15 Q. Okay. Thank you.

16 And the member is James C. Justice  
17 Companies, Inc.?

18 A. Correct.

19 Q. And that's also headquartered in the  
20 same location as all the other entities we've  
21 discussed today?

22 A. Yes.

23 Q. And it has the same employees?

24 A. It has no --

25 Q. The same --



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1 A. It has no employees, technically, --

2 Q. Okay.

3 A. -- but to the extent it has an annual  
4 filing or something like that that needs done,  
5 it would be done by the -- what we've been -- or  
6 what I've been referring to as professional and  
7 administrative staff of Bluestone Industries.

8 Q. Up until January of 2017, who were the  
9 directors of Tams Management, Inc.?

10 A. James C. Justice, II, and James C.  
11 Justice, III.

12 Q. Who were the officers?

13 A. James C. Justice, II, was president.  
14 James C. Justice, III, executive vice president.  
15 I was secretary. James T. Miller treasurer.

16 Q. Up until January of 2017 -- well,  
17 strike that.

18 After January of 2017, were -- I was  
19 going to try to name it for you, but I'm just  
20 going to let you do it. Strike that.

21 After January 2017, who were the  
22 directors and officers of Tams Management, Inc.?

23 A. Directors were James C. Justice, III,  
24 and Jillian Justice. The officers were James  
25 C. Justice, III, president; myself as vice

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1 president., James T. Miller as secretary and  
2 treasurer.

3 Q. Bluestone Energy Sales Corporation,  
4 who were the directors up 'til January 2017?

5 A. James C. Justice, II, and James C.  
6 Justice, III.

7 Q. And during the same time period, who  
8 were the officers?

9 A. James C. Justice, II, president; James  
10 C. Justice, III, executive vice president. I  
11 was secretary. James T. Miller as treasurer.

12 Q. And who were the directors and  
13 officers of Bluestone Energy Sales Corporation  
14 after January of 2017?

15 A. The directors are James C. Justice,  
16 III, and Jillian Justice. The officers are  
17 James C. Justice, III, as president. I'm the  
18 vice president, and James T. Miller is secretary  
19 and treasurer.

20 Q. For A&G Coal Corporation, who  
21 were the directors prior to January of 2017?

22 A. James C. Justice, II, and James C.  
23 Justice, III.

24 Q. And who are the officers?

25 A. James C. Justice, II, is -- or was

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1 president, James C. Justice, III, executive  
2 vice president. I was secretary and Terry -- or  
3 James T. Miller was treasurer.

4 Q. And who were the directors and  
5 officers of the A&G Coal Corporation after  
6 January of 2017?

7 A. The directors are James C. Justice,  
8 III, and Jillian Justice. The officers are  
9 James C. Justice, III, president. I'm the vice  
10 president. James T. Miller is secretary and  
11 treasurer.

12 Q. Who were the managers of Justice  
13 Family Farms LLC prior to January of 2017?

14 A. James C. Justice, II, and James C.  
15 Justice, III.

16 Q. In 2016, what was the business of  
17 Southern Coal Sales Corporation?

18 A. In 2016, Southern Coal Sales  
19 Corporation had, basically, been wound down.  
20 It was the primary sales company for Southern  
21 Coal Corporation in 2015, and some other Justice  
22 entities in 2015. In 2016, Bluestone Energy  
23 Sales Corporation had become the primary  
24 sales company, and so other than some existing  
25 relationships, one being Algoma Southern Coal

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1 Sales Corporation, it was winding down.

2 Q. What do you mean by winding down?

3 A. Any new relationships were going  
4 through Bluestone Energy Sales Corporation.  
5 So other than maintaining and administering  
6 existing and ongoing relationships that Southern  
7 Coal Sales had, it was not taking on any new  
8 business.

9 Q. Why?

10 A. It was predominantly finance-driven.  
11 Carter Bank & Trust was the primary lender for  
12 all Justice organizations. To take on the  
13 Algoma contract with the coal being sold on  
14 consignment, that was a heavy liquidity drain  
15 on the Southern Coal Sales and Southern Coal  
16 entities. And so we approached Carter Bank for  
17 a credit facility. Southern Coal Corporation  
18 had already either reached or exceeded its  
19 lending limitation at the bank. That was a  
20 bank requirement, not ours. Whatever their FDIC  
21 lending limits were, Southern Coal Corporation  
22 had basically been tapped out. So they advised  
23 us they were willing to do a credit facility for  
24 coal receivables, but it would have to be a new  
25 entity and it would have to be a standalone

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1 entity. And that's when we formed Bluestone  
2 Energy Sales in November of 2015 for that  
3 purpose.

4 Q. So that's when the original agreement  
5 was signed with Essar Algoma, correct, November  
6 of '15?

7 A. Yes.

8 Q. Okay. So the Bluestone Energy Sales  
9 entity was created, specifically, so that one  
10 of the Justice entities could get the credit  
11 required to go through with the Algoma deal?

12 A. That was the primary driver, and then  
13 it, obviously, financed all receivables -- coal  
14 sales receivables, in general. But that was the  
15 driver, was to create liquidity to be able to do  
16 the Algoma contract.

17 Q. All right. Does -- Bluestone Energy  
18 Sales Corporation, who owns it?

19 A. James C. Justice, II.

20 Q. Is Bluestone Energy Sales Corporation  
21 existing today?

22 A. It's not operational today. I do  
23 believe the entity still exists.

24 Q. When did it become non-operational?

25 A. I believe it -- I believe in 20 -- it

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1 may have been 2018. Late 2017, early 2018,  
2 we closed out the facility with Carter Bank &  
3 Trust, and once that facility was closed we  
4 no longer used it.

5 Q. So tell me, why did Southern Coal  
6 Sales Corporation enter into the agreement  
7 with Algoma rather than Bluestone Energy Sales  
8 Corporation?

9 A. Southern Coal Sales Corporation had  
10 an existing relationship with Algoma. And the  
11 Carter Bank & Trust issue was not anticipated.  
12 We didn't realize that that was the only way  
13 they could loan us money. And so, at the time,  
14 Southern Coal Sales Corporation was the primary  
15 and only sales company being utilized by the  
16 Justice organization for coal sales.

17 Q. Okay. And I'm trying to understand  
18 something you referred to, the Justice  
19 organization and the only way Carter Bank  
20 could loan us money, --

21 A. Okay.

22 Q. -- I'm trying to figure out who the  
23 us is and who the Justice organization is.

24 A. Okay. So the -- I'm, probably,  
25 just painting with too broad of a brush, but the

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1 Justice organization, generally, would be the  
2 coal companies that we've been discussing today,  
3 that those were the companies that had coal  
4 sales either through Southern Coal Corporation  
5 or the Bluestone Resources entities. You also  
6 had Tams Management, Inc. You also had A&G Coal  
7 Corporation, Kentucky Fuel Corporation. Any of  
8 those coal companies that are owned by the  
9 Justice Family, their coal would have been  
10 marketed through Southern Coal Sales  
11 Corporation.

12 Q. Okay.

13 A. So that's who I was referring to when  
14 I said that.

15 Q. Okay.

16 A. In the other context of your question,  
17 the us in that question would be Southern Coal  
18 Corporation. Southern Coal -- in -- Southern  
19 Coal Corporation approached Carter Bank for the  
20 additional credit on coal sales receivables,  
21 and Carter Bank said they would be happy to do  
22 a credit line, but they could not do it with  
23 Southern Coal Corporation, or any of its  
24 subsidiaries, due to their lending limits.

25 Q. Okay. And so you created the new

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1 entity, Bluestone Energy Sales Corporation, so  
2 that it could take out the credit from Carter  
3 Bank and move forward with the Algoma  
4 transaction?

5 A. Correct.

6 Q. What assets -- well, no, that's not a  
7 good -- strike that.

8 What was Southern Coal Sales  
9 Corporation bringing to the table in the Algoma  
10 agreement?

11 MS. BYROADE: Objection to form.

12 BY MR. BOLLIN:

13 Q. Okay. I'll ask that a little more  
14 formally.

15 A. Okay.

16 Q. What is it that Southern Coal Sales  
17 Corporation had or did in relation to the Algoma  
18 agreement?

19 A. They supplied the coal that Algoma  
20 purchased under the contract.

21 Q. How did they supply it?

22 A. By working with the various  
23 operations, A&G Coal Corporation being one,  
24 Dynamic Energy Surface Mine being one, Tams  
25 Surface Mine being the third, they acquired coal



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1 from those operations and, in turn, supplied it  
2 to Algoma. And in 2015, during the month of  
3 December -- November and December, they also  
4 acquired some third-party coal from third-party  
5 producers and supplied it to Algoma.

6 Q. Okay. So Southern Coal Sales  
7 Corporation didn't own any coal, right?

8 A. It doesn't own coal reserves, and it  
9 does not operate coal mines.

10 Q. Okay. It doesn't produce coal?

11 A. No.

12 Q. It acquires and transfers coal?

13 A. Acquires and resells.

14 Q. Okay. Were there agreements between  
15 Southern Coal Sales Corporation and these three  
16 entities, A&G, Dynamic, Tams?

17 A. No.

18 Q. So --

19 A. No written agreements.

20 Q. Okay. Were there even unwritten  
21 agreements?

22 A. Well, given the last hour, --

23 Q. Yeah.

24 A. -- you know, I mean, you have common  
25 people on each side of that transaction. So,

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1 obviously, there was an understanding that when  
2 a certain amount and quality of coal was agreed  
3 upon to be delivered to Algoma, those same  
4 people had an understanding on whether or not  
5 these three operations could produce that coal.

6 Q. Okay. So rather than an agreement,  
7 there was an understanding among the Justice  
8 Coal Companies that they would supply enough  
9 coal of the right quality to Algoma to satisfy  
10 the obligations under the agreement between SCSC  
11 and Algoma?

12 A. Yes.

13 Q. And that explicitly did include  
14 Bluestone -- let me say the name again -- that  
15 understanding did include Bluestone Energy Sales  
16 Corporation, right?

17 A. I don't understand the question.

18 Q. Sure.

19 I mean, Southern Coal Sales  
20 Corporation was getting its coal from the three  
21 Justice coal companies, right?

22 A. Three Justice family-owned, either  
23 directly or indirectly, operations.

24 Q. Okay. And it was getting the  
25 financing to go through with the deal with

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1 Algoma from Bluestone Energy Sales Corporation?

2 A. Yeah. Some of the money would have  
3 been used, ideally, to pay for trains, I know  
4 that's been an issue here, and to produce coal  
5 that was later sold to Algoma.

6 That was somewhat complicated by the  
7 fact that the Algoma contract was never formally  
8 transferred to Bluestone Energy Sales, because  
9 it created an issue where Carter Bank couldn't,  
10 in turn, get a lien on the Algoma receivable,  
11 so it was somewhat complicated. We attempted  
12 to have the contract assigned, but what was  
13 conveyed to me by Steve Sears is, due to the  
14 bankruptcy complication with Algoma, there could  
15 be problems getting an assignment ratified in  
16 the bankruptcy proceeding, and so the contract  
17 stayed in Southern Coal Sales' name.

18 Q. So perhaps you can explain to  
19 me how it works, or how it worked in 2016.  
20 There's an agreement between Southern Coal Sales  
21 Corporation and Algoma, signed in April of 2016,  
22 an amending agreement. You're familiar with  
23 that?

24 A. Yes.

25 Q. Okay. There's a request for a

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1 shipment of coal. How would Southern Coal Sales  
2 Corporation fund, for example, the acquisition  
3 of trains to provide service to provide the  
4 delivery of coal to the port?

5 A. So going back to the beginning, --

6 Q. Yeah.

7 A. -- in a perfect world, we would have  
8 been able to have gotten that money from Carter  
9 Bank, but because the Algoma contract was never  
10 assigned and Carter Bank did not have a lien on  
11 Algoma receivables back to Southern Coal Sales,  
12 that didn't quite work out like we had  
13 originally anticipated. So those trains would  
14 be funded either through money from Southern  
15 Coal Corporation or, possibly, another  
16 Justice-owned entity through a loan.

17 There had been instances over the  
18 years where we have, basically, had brokers  
19 factor a coal shipment for us, where they'll  
20 prepay the transportation -- I don't remember  
21 that happening on Algoma, but a broker, for  
22 example, will prepay your transportation costs,  
23 and then they get a certain percent of the sales  
24 price in return for doing that.

25 So there's different ways of doing

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1           that, but, I think, typically, with Algoma we  
2           were funding it within either Southern Coal  
3           Corporation or a loan from another Justice-owned  
4           entity.

5           Q.     Okay. I mean, Southern Coal Sales  
6           Corporation didn't really have its own money,  
7           right?

8                     MR. ROBECK: Objection; form.

9                     THE WITNESS: It had receivables that  
10           were paid to it, --

11           BY MR. BOLLIN:

12           Q.     Okay.

13           A.     -- but sometimes the timing of  
14           receivables coming in and trains being scheduled  
15           would not match up exactly. So if you needed  
16           to schedule a train but you hadn't received a  
17           receivable recently, there would be a cash need.

18           Q.     Okay. And when there was a cash need,  
19           that was funded by Southern Coal Corporation or  
20           Bluestone Energy Sales Corporation?

21           A.     Or it's possible even a separate  
22           Justice-owned entity. It's not uncommon for  
23           us to do intercompany loans when there's a cash  
24           need like that.

25           Q.     Okay. Are those formal loans? Are

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1           those documented?

2           A.    They're documented in our accounting  
3           records. Each company records a receivable to  
4           -- or a payable to and a receivable from, and  
5           then those are reconciled throughout the year.

6           Q.    Okay. So there's no other formal loan  
7           documents?

8           A.    Not in a traditional sense, like a  
9           promissory note or anything like that. Nothing  
10          like that.

11          MR. BOLLIN: Can we take a  
12          three-minute break?

13          MS. BYROADE: Yeah.

14          MR. ROBECK: Sure.

15          (Recess taken.)

16          BY MR. BOLLIN:

17          Q.    So just before the break you had  
18          testified that you have accounting records that  
19          show transfer of money of loans among Justice  
20          entities; is that right?

21          A.    Yes.

22          Q.    Okay. What are those records?

23          A.    So it would be journal entries that  
24          relate to the balance sheet for each specific  
25          entity. If it's within a parent subsidiary

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1 context, it would be referred to as an  
2 intercompany payable or intercompany receivable.  
3 If it's a Justice-owned entity but it's outside  
4 of the parent subsidiary context, it would be  
5 referred to as a related party payable or a  
6 related party receivable. And then there's a  
7 third separate one for shareholder loans.

8 Q. Who keeps those records?

9 A. It has varied over time, but whoever  
10 the accountant is for each particular entity.

11 Q. Okay. Is there a master ledger where  
12 all of this is kept?

13 A. It would be on each party's books.  
14 So it would be on the general ledger of each  
15 party's books, which all of our accounting is  
16 run through an accounting software called MAS,  
17 M-A-S, MAS 200. It's a Sage product. So it  
18 would all be included within that company's  
19 books on that accounting system.

20 Q. Okay. And these accounts are all  
21 maintained at the headquarters -- the common  
22 headquarters?

23 A. All accounting is at the headquarters,  
24 yes.

25 Q. And it's all the same shared personnel

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1 who are doing the accounting for all the various  
2 Justice entities?

3 A. Typically.

4 Q. Okay.

5 A. I mean, there have been instances over  
6 the years -- well, I think during this timeframe  
7 that would be.

8 Q. And who runs that part of the  
9 business?

10 A. The accounting department, it has  
11 -- we refer to each one of our accountants  
12 that is responsible for a particular group of  
13 companies as a senior controller. Like, today  
14 the senior controller for the Bluestone Group of  
15 companies is Amanda Boggs. She's a CPA.  
16 She has 30 years' experience. During this  
17 timeframe, she was doing Southern Coal  
18 Corporation. She was the senior controller  
19 for Southern Coal. And during '15, '16 and  
20 '17, the senior controller for Bluestone was a  
21 gentleman by the name of Aaron Smith. He no  
22 longer works for the company.

23 Q. And who did they report to?

24 A. They reported to Summer Harrison,  
25 typically. They also will sometimes report



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1 directly to me, although, organizationally  
2 speaking, they typically directly report to  
3 Summer.

4 Q. Do you know if these records that  
5 you've been speaking of have been produced in  
6 this litigation?

7 A. As it relates to Southern Coal Sales  
8 Corporation, it shows up as a line item on their  
9 balance sheet. It would also show up as a line  
10 item on the balance sheet of Southern Coal  
11 Corporation. To my knowledge, none of the  
12 books for other Justice-owned entities have been  
13 disclosed.

14 Q. Have the books related to transfers  
15 and loans from other Justice entities to  
16 Southern Coal Sales Corporation been produced?

17 A. It's included on the balance sheet of  
18 Southern Coal Corporation. The actual entries  
19 themselves, I don't think that the -- I think  
20 that would be part of the general ledger, and,  
21 to my knowledge, the general ledger has not been  
22 disclosed. It was just the balance sheet and  
23 the income statement.

24 Q. Is there any way --

25 MR. ROBECK: Nor do I think it was

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1 requested.

2 MR. BOLLIN: Well, we can disagree  
3 about that.

4 BY MR. BOLLIN:

5 Q. Is there any way to determine what  
6 specific loans were made to or from Southern  
7 Coal Corporation from other Justice entities,  
8 other than looking at the general ledger?

9 A. No. That's where you would go to  
10 determine that.

11 (Ball Exhibit No. 505, the balance  
12 sheet and income statement for Nevada Holdings,  
13 Inc., for the year-end 2015, was marked.)

14 BY MR. BOLLIN:

15 Q. I'm handing to you what's been marked  
16 as Exhibit 505. Do you recognize it?

17 A. Yes. It's the balance sheet and  
18 income statement for Nevada Holdings, Inc., for  
19 the year-end 2015.

20 Q. Okay. A moment ago we were talking  
21 about moneys received by Southern Coal Sales  
22 Corporation -- well, first, Nevada Holdings,  
23 Inc., that's the same thing as Southern Coal  
24 Sales Corporation?

25 A. Correct.

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1 Q. In December of 2015, it was not yet  
2 known as Nevada Holdings, Inc., correct?

3 A. That's correct.

4 Q. Do you know when this consolidated  
5 balance sheet was created?

6 A. I don't.

7 Q. Fair to say that it was created after  
8 2015?

9 A. The printout. I mean, the accounting  
10 system, once a period has been closed, that  
11 period should not change. But all of this is  
12 kept electronically now, so it's not like these  
13 are kept in the ordinary course in a paper copy.

14 So when they would go to generate  
15 this, I'm assuming for this request, the system  
16 would recognize whatever entity name had been  
17 assigned to it at the time the report was  
18 generated. But the numbers would not have  
19 changed since whenever these books were closed  
20 out, usually, you know, within 120 days of  
21 year-end.

22 Q. All right. So let's look at the  
23 sheet. This is -- so when this says Nevada  
24 Holdings, Inc., consolidated balance statement,  
25 it is -- we're talking about Southern Coal Sales

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1 corporation, right?

2 A. Correct.

3 MR. ROBECK: Asked and answered.

4 BY MR. BOLLIN:

5 Q. Where in Exhibit 505 are the loans  
6 that you were referenced from other Justice coal  
7 entities or Justice entities?

8 A. So it's in two spots. On the  
9 first page, under other assets, you see I/C  
10 receivables. That stands for intercompany  
11 receivable. Here it's a negative, so  
12 technically it's a payable.

13 Q. So that's money owned by SCSC?

14 A. Correct.

15 Q. Who is it owed to?

16 A. I can't tell from the face of this.

17 And then on the second page,  
18 under long-term liabilities, you have loan to  
19 shareholders, and then you have I/C payables,  
20 which stands for intercompany payables.

21 Q. What is the loan to shareholders?

22 A. That would be money that has been  
23 loaned to the entity. In this instance, it  
24 would come from Southern Coal Corporation.  
25 It could come from the Justice family through

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1 Southern Coal Corporation, but it's to indicate  
2 that it came from the shareholder instead of a  
3 subsidiary or a related party.

4 Q. So the [REDACTED] of long-term  
5 liability on Page 2 of Exhibit 505 is a loan  
6 from Southern Coal Corporation?

7 MR. ROBECK: Say that one more time.

8 MR. BOLLIN: Can you read it back?

9 (Referred-to testimony read back.)

10 THE WITNESS: I would anticipate that  
11 that is money that has been loaned to Southern  
12 Coal Corporation by the Justice family, and  
13 then, in turn, from Southern Coal to Southern  
14 Coal Sales. It is possible that the Justice  
15 family would loan it directly to Southern Coal  
16 Sales Corporation. That has happened before.  
17 But, typically speaking, when money is loaned to  
18 a subsidiary, we want that to flow through the  
19 parent company, not directly from the indirect  
20 shareholders, which would be the Justice family.  
21 BY MR. BOLLIN:

22 Q. Okay. Why is that?

23 A. It's just cleaner accounting-wise,  
24 from what I'm told, I'm not an accountant, but  
25 it's cleaner to keep the shareholder loans

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1 with the direct shareholder, not the indirect  
2 shareholders. So it's for an efficiency purpose  
3 from an accounting standpoint.

4 Q. Okay. So whether it's pass-through  
5 or directly, the [REDACTED] set forth on Page 2  
6 of Exhibit 505 comes from the Justice family?

7 MR. ROBECK: Objection.  
8 Mischaracterizes what he testified to.

9 THE WITNESS: If it comes from  
10 Southern Coal Corporation, it would not  
11 necessarily have to come from the Justice  
12 family. It more than likely would. But if  
13 Southern Coal Corporation otherwise had cash  
14 available and Southern Coal Sales Corporation  
15 needed it, it could loan its own cash.

16 BY MR. BOLLIN:

17 Q. Okay. So if it came -- if the \$ [REDACTED]  
18 [REDACTED] loan set forth on Page 2 of Exhibit 505  
19 came from Southern Coal Corporation, it could be  
20 Justice family money, or it could come from  
21 Southern Coal's own coffers or it could come  
22 from some third party?

23 A. Through -- yeah. The -- yes. But it  
24 would come through southern coal.

25 Q. Okay. And how could we find out the

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1 answer to that question? Who was funding the [REDACTED]  
2 [REDACTED]?

3 A. There would be detail. Similar  
4 to what we described on these intercompany  
5 transactions, the loan to shareholder would have  
6 a similar entry. So when Southern Coal Sales  
7 received that money, there would be an entry  
8 describing whether it came directly from  
9 Southern Coal Corporation or from the Justice  
10 family shareholders.

11 If it came from Southern Coal  
12 Corporation, if you wanted to then determine  
13 whether they had received that money from some  
14 other entity, then you would look at their books  
15 for a corresponding entry to see if they had  
16 received a similar amount on that same day.

17 Q. So that would be in the Southern Coal  
18 Corporation ledger?

19 A. Yes.

20 Q. Did you review that ledger in  
21 preparation for your deposition today?

22 A. No.

23 Q. Is that something you have access to?

24 A. I could see it. I don't have -- I  
25 don't have unfettered access to it, but if I

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1 asked to see it, I could see it.

2 Q. Earlier you were talking about the  
3 -- that the money for the loan, the [REDACTED],  
4 could come from the Justice family, right?

5 A. Correct.

6 Q. Who do you mean?

7 A. Either --

8 Q. Who's the Justice family?

9 A. The shareholders of Southern Coal  
10 Corporation are James C. Justice, II, James C.  
11 Justice, III, and Jillian Justice, and over time  
12 all three of them have loaned money to Southern  
13 Coal Corporation.

14 Q. Going back to the first page of  
15 Exhibit 505, what were Southern Coal Sales  
16 Corporation's fixed assets at the time this  
17 document was created in 2015?

18 A. There are [REDACTED].

19 Q. How could we determine to whom the  
20 intercompany receivable of [REDACTED] -- strike  
21 that.

22 Is that \$ [REDACTED]?

23 A. Yes.

24 Q. Okay. How could we determine who that  
25 was owed to?



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1           A.    Again, on the accounting records  
2           that underpin this report, there would be  
3           entries that record that, and that's how it,  
4           ultimately, shows up on the balance sheet.

5           Q.    Okay. Do you have access to those?

6           A.    I mean, they're part of the accounting  
7           system.

8           Q.    So you do?

9           A.    Yeah. I mean, it's the same as --

10          Q.    Okay.

11          A.    This is just a report that the  
12          accounting system is designed to generate, but  
13          all of the information that underpins this  
14          report is in that system.

15          Q.    Okay. Did you review the information  
16          in that system in preparation for your  
17          deposition here today?

18          A.    No.

19          Q.    Why not?

20          A.    I don't have access to the accounting  
21          system directly.

22          Q.    So you have to ask for it?

23          A.    Yeah.

24          Q.    And if you asked for it, you'd be  
25          given it?

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1           A.    Yeah.  If I asked for a specific  
2           report, they would generate it for me.

3           Q.    And beyond that, if you wanted to  
4           see who was making loans -- intercompany loans  
5           to Southern Coal Sales Corporation, you could  
6           find out, right?

7           A.    I could see who the loans had been  
8           made to or from, yes.

9           Q.    You were characterizing them as loans.  
10          Do you know if they were paid back?

11          A.    Typically, they are.

12          Q.    We would have to look at a particular  
13          loan in order to determine whether it was paid  
14          back?

15          A.    Yeah, I mean, you would look at the  
16          same account over -- at different time periods  
17          to see what the activity was, but, typically, we  
18          do expect for those to be paid back.

19                   (Ball Exhibit No. 506, the balance  
20          sheet and income statement for Nevada Holdings,  
21          Inc., for 2016, was marked.)

22          BY MR. BOLLIN:

23          Q.    You've been handed Exhibit 506.  Do  
24          you recognize the exhibit?

25          A.    It's the balance sheet and income

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1 statement for Nevada Holdings, Inc., for 2016.

2 Q. And, again, this is the same entity as  
3 Southern Coal Sales Corporation?

4 A. Correct.

5 Q. And this is the year-end statement,  
6 correct?

7 A. It is. Correct.

8 Q. What are the intercompany receivables  
9 as of that date, December 31st, 2016?

10 A. [REDACTED].

11 Q. What are the prepaid expenses?

12 A. [REDACTED].

13 Q. And what are those prepaid expenses?

14 A. I believe those relate to a throughput  
15 and transloading agreement that Southern Coal  
16 Sales had with [REDACTED] for port  
17 space in Newport News. It had -- that agreement  
18 required for a monthly minimum payment of [REDACTED]  
19 [REDACTED] dollars.

20 Q. And Southern Coal Sales Corporation  
21 had prepaid 11 months?

22 A. Yes.

23 Q. Did Southern Coal Sales Corporation  
24 have an agreement with [REDACTED]

25 A. There is an agreement with [REDACTED].

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1 I can't recall off the top of my head if it's  
2 Southern Coal Corporation or if it's Southern  
3 Coal Sales Corporation.

4 Q. Well, you told me that Southern Coal  
5 Sales Corporation was winding down in 2016 and  
6 that all new business went to other entities and  
7 not to Southern Coal Sales Corporation, right?

8 A. Yeah. And I believe this is just a  
9 carryover from the prior year. I don't think  
10 the port space had been used, and I think in the  
11 prior year there was also a prepaid expense of a  
12 similar amount, and so I think this is just a  
13 carryover.

14 Q. Okay. Looking at Exhibit --

15 MR. ROBECK: They're not selling coal  
16 either. This is not a sale of coal.

17 MR. BOLLIN: Right.

18 MR. ROBECK: Okay.

19 BY MR. BOLLIN:

20 Q. -- Exhibit 505, it has prepaid  
21 expenses in 2015 of \$ [REDACTED]; is that right?

22 A. Correct.

23 Q. So sometime prior to the end of 2015  
24 Southern Coal Sales Corporation had prepaid  
25 expenses of \$ [REDACTED] to [REDACTED]?

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1 A. Correct.

2 Q. And by the end of 2016 it was down to  
3 [REDACTED]?

4 A. Yes.

5 Q. Do you know if payments were made to  
6 [REDACTED] during 2016?

7 A. I don't recall when that agreement  
8 ended.

9 Q. Do you recall whether the agreement  
10 with [REDACTED] was a Southern Coal Sales  
11 Corporation agreement?

12 A. I don't. Like I said, I believe it  
13 was either Southern Coal Corporation or Southern  
14 Coal Sales. I believe it started in 2013.

15 Q. Okay.

16 A. And I don't recall when it ended, off  
17 the top of my head.

18 Q. Looking at the second page of the  
19 Exhibit 506, what were the long-term liabilities  
20 as of that date?

21 A. [REDACTED]

22 Q. And how much of that was loans from  
23 shareholders?

24 A. [REDACTED]

25 Q. If I'm not mistaken, I think you just

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1           gave me the number for the intercompany  
2           payables, didn't you?

3           A.    I'm sorry. What was your question?  
4           I may have read the wrong number.

5           Q.    No. That's fine. That's why I'm  
6           asking.

7           A.    Yeah. No.

8           Q.    What were the loans to shareholders?

9           A.    I'm sorry. I read the wrong number.

10          Q.    Yeah.

11          A.    It's \$ [REDACTED] -- \$ [REDACTED] in the  
12          negative.

13          Q.    What does that mean?

14          A.    That would appear -- a negative on  
15          this side would indicate a receivable. We've  
16          never paid back loans to shareholders, so I  
17          think this has to be when something was booked  
18          in the form of a shareholder loan, or what have  
19          you, there had to be a typo from a numbers  
20          standpoint. Because we wouldn't have a  
21          receivable on this side. I mean, there wouldn't  
22          be a dividend. We wouldn't pay a div -- that,  
23          technically, would indicate there's a dividend  
24          owed, --

25          Q.    Mm-hmm.

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1 A. -- and we wouldn't have that.

2 Q. Okay. So --

3 A. And I misspoke. Can I clarify  
4 something?

5 Q. Sure.

6 A. We do repay shareholder loans.

7 Q. Okay.

8 A. We do not make dividends. And this  
9 negative number here would indicate that it  
10 would be a dividend upcoming. You haven't made  
11 it yet, but it's recorded, so that tells me  
12 that's a mistake.

13 Q. Okay. And in any case, the \$ [REDACTED]  
14 [REDACTED] loan to Southern Coal Sales Corporation  
15 in 2015 has been paid back by the end of 2016?

16 A. Yes.

17 Q. If we wanted to find out what the  
18 balance was there -- you're saying it's not  
19 negative [REDACTED]. If we're trying to figure out  
20 what the real balance is, where would we look?

21 A. You would look at the ledger recording  
22 all of the shareholder loans and all of the  
23 shareholder repayments. There is a chance, and  
24 I don't know that this happened, sometimes with  
25 subsidiaries -- excuse me. Yeah, it didn't

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1           happen here. Sometimes shareholder loans can be  
2           capitalized and converted to equity, and so you  
3           could have a loan go away from that standpoint,  
4           but you would see the increase in equity, and I  
5           don't think that happened here.

6                       So you would go to the general ledger  
7           to look at the recording of the shareholder  
8           loans.

9           Q.     What were the intercompany payables at  
10          the end of 2016?

11          A.     [REDACTED]

12          Q.     And to whom did Southern Coal Sales  
13          Corporation owe [REDACTED]

14          A.     I can't tell from the face of this.

15          Q.     Again, to find out, you'd have to look  
16          at Southern Coal Sales Corporation's ledger?

17          A.     Yes. A summary of their intercompany  
18          transactions, which would be generated from the  
19          general ledger.

20          Q.     It also listed a note payable?

21          A.     Yes.

22          Q.     What was that?

23          A.     I can't tell from the face of this.

24          Q.     Where would we have to look to figure  
25          that out?



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1 A. The general ledger.

2 (Ball Exhibit No. 507, the balance  
3 sheet and income statement for Nevada Holdings,  
4 Inc., for the year ended 12/31/2017, was  
5 marked.)

6 BY MR. BOLLIN:

7 Q. I've handed you what's been marked as  
8 Exhibit 507. Can you identify the document?

9 A. This is the balance sheet and income  
10 statement for Nevada Holdings, Inc., for the  
11 year ended 12/31/2017.

12 Q. Turning to the second page, first of  
13 all, the accounts payable has changed from 2016.  
14 In 2016 it was [REDACTED] and now it's  
15 [REDACTED]; is that right?

16 A. That's correct, yes.

17 Q. Was Southern Coal Sales Corporation  
18 doing business in 2017?

19 A. No.

20 Q. Do you know where the \$ [REDACTED] was  
21 paid out to?

22 A. Are you asking me who paid the  
23 accounts payable?

24 Q. No.

25 A. Just so I understand the question.

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1 Sorry.

2 Q. I'm wondering who was paid with the  
3 \$ [REDACTED] difference between 2016 and 2017?

4 A. It would be various vendors, I'm sure.

5 Q. Do you know what for?

6 A. Not specifically, no.

7 MR. ROBECK: Maybe legal services by  
8 that point.

9 BY MR. BOLLIN:

10 Q. Could any of the vendors be other  
11 Southern Coal -- I'm sorry, other Justice  
12 entities?

13 A. No.

14 Q. And how do you know that?

15 A. I can't think of any instance where  
16 we bill one of our own entities as an account  
17 payable.

18 Q. Okay. The loan to shareholders is  
19 still negative, right?

20 A. Correct.

21 Q. And you think that's a mistake?

22 A. I do. I mean, it's nominal, but I do.

23 Q. The amount owed to intercompany loans  
24 has increased from 2016 by almost \$ [REDACTED]; is  
25 that right?

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1 A. Yes.

2 Q. Again, Nevada Holdings, Inc., wasn't  
3 doing business in 2017, was it?

4 A. It was not doing any active coal  
5 sales, no.

6 Q. How did it incur [REDACTED] more in  
7 intercompany loans in 2017?

8 A. I think it's logical to think that [REDACTED]  
9 [REDACTED] of that went to pay bills that  
10 are no longer on the balance sheet. The other  
11 [REDACTED], I can't tell just by looking at the  
12 balance sheet what it would have been used for.

13 There's a -- you know, there's  
14 a \$ [REDACTED] general expense on the income  
15 statement. I can't tell what that is from  
16 the face of the document.

17 Q. If you wanted to determine what that  
18 \$ [REDACTED] expense was, where would we look?

19 A. It's [REDACTED] --

20 Q. I'm sorry.

21 A. -- but we would look at the detail in  
22 the general ledger.

23 Q. And, again, you didn't review the  
24 general ledger prior to your deposition today?

25 A. No.

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1 (Ball Exhibit No. 508, the balance  
2 sheet and income statement for June 30th, 2018,  
3 for Nevada Holdings, Inc., was marked.)

4 BY MR. BOLLIN:

5 Q. Could you identify Exhibit 508 for the  
6 record, please?

7 A. It is the balance sheet and income  
8 statement for June 30th, 2018, for Nevada  
9 Holdings, Inc.

10 Q. All right. Change of topic real  
11 quick. I have a follow-up question.

12 From Exhibit 502, --

13 A. Yes.

14 Q. -- the entities listed on the first  
15 page, Southern Coal Corporation entities, are  
16 any of those still active?

17 A. None of these companies have active  
18 operations.

19 Q. And that includes Southern Coal  
20 Corporation?

21 A. Southern Coal Corporation never  
22 operated. It only had operations through its  
23 subsidiaries, but it was never an operating  
24 company itself.

25 Q. Who employed the employees who worked

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1 for Southern Coal Corporation? Where did they  
2 get their paychecks?

3 A. During what time period?

4 Q. 2016.

5 A. During 2016, none of these companies  
6 would have been operating, and so the corporate  
7 overhead -- I mean, the answer to your question  
8 is, I don't know, specifically. But it would  
9 have been Blue -- either Bluestone Industries,  
10 who was operating, or it's possible A&G Coal,  
11 who was operating during that time period, they  
12 could have been employed by them.

13 Q. Okay.

14 A. But it would not have been by any of  
15 these entities.

16 Q. Okay. So folks who are doing work for  
17 Southern Coal Sales Corporation in 2016, do we  
18 know who paid them?

19 A. There really would only be -- you have  
20 a salesperson, Steve Sarver, and then whatever  
21 legal accounting support they needed. And I  
22 don't know. Because I had -- you would have  
23 Summer Harrison, who would have handled the  
24 cash. There really would only be, like, three  
25 or four people --

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1 Q. Okay.

2 A. -- for Southern Coal Sales  
3 Corporation.

4 Q. So in 2016, the Algoma agreement,  
5 that was the biggest deal within the Justice  
6 Coal Companies, right?

7 A. I can't say one way or the other.  
8 I don't know.

9 Q. All right. I'm just trying to figure  
10 out, you've got an agreement signed by Southern  
11 Coal Sales Corporation with Algoma, right?

12 A. Correct.

13 Q. And it's being performed by employees  
14 of Southern Coal Corporation?

15 A. Well, it's being performed by Southern  
16 Coal Sales Corporation.

17 Q. Okay.

18 A. Southern Coal Sales Corporation is the  
19 entity delivering the coal to Algoma.

20 Q. Okay. And they're getting their coal  
21 from other Justice entities and -- for the 2016  
22 agreement, right?

23 A. For 2016, they were receiving it from  
24 Dynamic Energy and A&G Coal Corporation.

25 Q. Okay. And when they were interacting

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1 with the railroad and interacting with Algoma,  
2 were they acting as Southern Coal Corporation  
3 employees? Whose employees were they?

4 A. Well, they were never -- I mean, you  
5 can only be an employee -- not trying to give a  
6 legal answer, but I think you can only be an  
7 employee of whoever pays you. I mean, I think  
8 you can represent other people.

9 Q. That's all I'm trying to figure out.

10 A. Southern Coal Sales Corporation has  
11 never had employees, --

12 Q. Okay.

13 A. -- so they were never an employee of  
14 Southern Coal Sales Corporation.

15 Q. Okay.

16 A. So they would have been representing  
17 Southern Coal Sales Corporation. Who they were  
18 actually receiving their paycheck from, --

19 Q. You just don't know.

20 A. -- I don't know.

21 Q. In 2016, Jim Justice and Jay Justice  
22 and you and Mr. Miller were officers and  
23 directors of Southern Coal Sales Corporation,  
24 right?

25 A. Yes.

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1 MR. ROBECK: Objection; form.

2 Do you mean all of them were both  
3 officers and directors?

4 BY MR. BOLLIN:

5 Q. Okay. So the directors were the  
6 Justices, right, Jim and Jay?

7 A. Correct.

8 Q. And the officers were, Jim Justice,  
9 Jay Justice, you and Mr. Miller?

10 A. Yes.

11 Q. Were you compensated for those  
12 services?

13 A. Not from Southern Coal Sales  
14 Corporation.

15 Q. Do you know who you were compensated  
16 by?

17 A. Yes.

18 Q. Who were you compensated by?

19 A. Greenbrier Hotel Corporation.

20 Q. So if you're an employee of Greenbrier  
21 Hotel Corporation, why are you doing services  
22 for Southern Coal Sales Corporation?

23 A. Because I'm a corporate officer.

24 Q. Of Southern Coal Sales Corporation?

25 A. Yes.



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1 Q. I'm sorry. You said Greenbrier Hotel  
2 Corporation?

3 A. Yes.

4 Q. Who owns Greenbrier Hotel Corporation?

5 A. Greenbrier Resort and Club Management  
6 Company.

7 Q. Resort and Club Management Company?

8 A. Yes.

9 Q. Who owns resort -- Greenbrier Resort  
10 and Club Management Company?

11 A. C&O Traveler, Inc.

12 Q. Who owns C&O Traveler, Inc.?

13 A. Justice Family Group, LLC.

14 Q. Who are the members of Justice Family  
15 Group, LLC?

16 A. James C. Justice, II, James C.  
17 Justice, III, and Jillian Justice.

18 Q. Were they also the managers of the  
19 Justice -- I'm sorry. Strike that.

20 Did C&O Traveler, Inc., Resort and  
21 Club Management Company -- or is it corporation?

22 A. Which one? I think you combined two.

23 Q. Yeah. Resort and Club Management --

24 A. Greenbrier Resort and Club Management  
25 Company, Inc.

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1 Q. Okay.

2 Did Greenbrier Hotel Corporation,  
3 Greenbrier Resort and Club Management Company,  
4 Inc., C&O Traveler, Inc., all share the same  
5 directors?

6 A. No.

7 Q. Just taking a shot.

8 A. Yeah.

9 Q. Who are the directors of C&O Traveler,  
10 Inc.?

11 A. I should have asked this. What time  
12 frame?

13 Q. 2016.

14 A. James C. Justice, II, and James C.  
15 Justice, III.

16 Q. Who are the officers?

17 A. I'd like the chance to clean this up  
18 later, if I need to. I'll do the best I can.

19 Q. Tell me what you know.

20 A. I didn't plan on these.

21 MR. ROBECK: No, because it is outside  
22 the scope.

23 MR. BOLLIN: I'm just going where he  
24 took me.

25 MR. ROBECK: You're now outside the

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1 scope of the deposition. I'm going where he  
2 took me does not expand the deposition.

3 MR. BOLLIN: He's an employee and  
4 officer --

5 MR. ROBECK: I understand that.

6 MR. BOLLIN: -- of Southern Coal Sales  
7 Corporation, who's paid by Greenbrier Hotel  
8 Corporation, and you think that's beyond the  
9 scope of the deposition, to find out who's  
10 paying him?

11 MS. BYROADE: You're well beyond who's  
12 paying him.

13 MR. ROBECK: First off, I haven't  
14 instructed him not to answer. But it is beyond  
15 the scope of the deposition, and he may not know  
16 the answer because he didn't prepare for it.

17 MR. BOLLIN: Okay. That's a different  
18 issue, and I understand that. Thank you.

19 THE WITNESS: I think the directors  
20 were James -- are James C. Justice, II, and  
21 James C. Justice, III. The president in 2016  
22 was James C. Justice, II. Jay Justice,  
23 typically, is not an officer of the Greenbrier  
24 entities, so I'm not sure if there is a vice  
25 president. And I believe Terry Miller is the

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1 secretary and treasurer.

2 BY MR. BOLLIN:

3 Q. Were you an officer of C&O Traveler  
4 Inc.?

5 A. I have been before. I've been  
6 secretary.

7 Q. You just don't know about the timing?

8 A. Yeah. Off the top of my head, I can't  
9 remember what year I stopped doing that.

10 Q. Okay. You're not the secretary now?

11 A. No.

12 Q. Do you have a role with Greenbrier  
13 Resort and Club Management Company, Inc.?

14 A. These companies are just holding  
15 companies, just so you know, but, no.

16 Q. Okay. And when you say these  
17 companies, which ones are you referring to?

18 A. C&O Traveler -- well, Justice Family  
19 Group, C&O Traveler, Inc., and Greenbrier Resort  
20 and Club Management Company.

21 Q. Who are the directors of Greenbrier  
22 Hotel Corp?

23 A. What time period?

24 Q. 2016.

25 A. James C. Justice, II, Jeff Kemeic, I

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1 think he spells that K-e-m-e-i-c, and James C.  
2 Justice, III.

3 Q. Who are the officers?

4 A. In 2016, James C. Justice, II, was  
5 still president and CEO, Elmer Coppoolse was the  
6 chief operating officer, Elaine Butler was the  
7 treasurer, and I was the secretary.

8 Q. Why was Greenbrier Hotel Corporation  
9 paying your salary?

10 A. In 2015, the prior COO of the  
11 Greenbrier passed away. He was a really good  
12 friend of Mr. Justice's, and it was a sudden  
13 death. And after his death Mr. Justice asked me  
14 to move to the Greenbrier to help fill in some  
15 gaps.

16 Q. So while you're receiving your  
17 paycheck from Greenbrier Hotel Corporation you  
18 continued your role working for all of the other  
19 Justice entities that we've described here  
20 today?

21 A. Yes.

22 Q. And was your compensation from the  
23 Greenbrier Hotel Corporation intended to  
24 compensate you for the work you were performing  
25 for those other entities?

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1           A.    My compensation didn't change, so it  
2           was intended to compensate me for the tasks I  
3           was asked to do.

4           Q.    For all of the companies?

5           A.    For all of the companies for which I  
6           represented in whatever capacity, whether it was  
7           as general counsel, as secretary, whatever that  
8           capacity was.

9           Q.    In 2016, Jim Justice was the president  
10          of Southern Coal Sales Corporation, right?

11          A.    Yes.

12          Q.    How was he compensated?

13          A.    I, honestly, don't know Mr. Justice's  
14          compensation structure.

15          Q.    Do you know Jay Justice's  
16          compensation?

17          A.    Not specifically, no.

18          Q.    If we wanted to find that out, where  
19          would you look?

20          A.    Payroll records. I mean, I guess you  
21          could ask him for his personal tax return, which  
22          would reflect his W2s. I mean, I don't know,  
23          but I'm just thinking if I wanted to find  
24          someone's compensation, that's where I would  
25          look.

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1 Q. Okay.

2 A. But I don't know what his compensation  
3 structure is.

4 Q. What about Mr. Miller? Do you know  
5 how he was compensated in 2016?

6 A. I believe he was compensated by the  
7 Greenbrier similar to what I was. He has served  
8 -- he physically works out of the Greenbrier,  
9 and he doesn't have any true day-to-day role  
10 with the coal companies. He does still serve  
11 as treasurer and has some -- obviously, some  
12 oversight in that role, but doesn't do anything  
13 day to day with the coal companies.

14 (Ball Exhibit No. 509, a summary of  
15 all of Southern Coal Sales Corporation's  
16 shipments for the years 2015, '16 and '17, was  
17 marked.)

18 (Ball Exhibit No. 510, a supplemental  
19 spreadsheet to Exhibit 509, was marked.)

20 BY MR. BOLLIN:

21 Q. I'm going to ask you to first look at  
22 Exhibit 509. Have you seen this document  
23 before?

24 A. Yes.

25 Q. Do you know what this is?

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1           A.    I believe it's a summary of all of  
2           Southern Coal Sales Corporation's shipments for  
3           the years 2015, '16 and '17.

4           Q.    And these are to all customers, not  
5           just to Algoma?

6           A.    It includes other customers, yes.

7           Q.    Okay. And who compiled this document?

8           A.    I think that Janet Ransom, who  
9           works in the Roanoke office and assists Summer  
10          Harrison with billing and invoicing, prepared  
11          this for Summer.

12          Q.    Do you know why she prepared it for  
13          Summer?

14          A.    I think it was for this litigation.

15          Q.    And this was compiled from information  
16          that was kept on Southern Coal Corporation's  
17          financial records?

18          A.    I don't think this information would  
19          be in the accounting system that we were talking  
20          about earlier. I think this is more just  
21          maintained on a spreadsheet.

22          Q.    And this is the total sales of  
23          Southern Coal Corporation from November of  
24          2015 through December of 2017?

25               MR. ROBECK: Which exhibit are you



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1 asking about?

2 MR. BOLLIN: It's 509.

3 MR. ROBECK: 509 or 510?

4 MR. BOLLIN: It's been 509 this whole  
5 time.

6 MS. BYROADE: Well, he's got both in  
7 front of him.

8 MR. BOLLIN: And if you look back at  
9 the transcript you'll see that I said let's just  
10 look at 509 first.

11 MS. BYROADE: Well, for the record,  
12 510 is the supplemental spreadsheet that  
13 contains more than what's on 509.

14 MR. ROBECK: And when he answered the  
15 question earlier, he said it included everything  
16 for the years '15, '16 and '17. So I think  
17 maybe --

18 MR. BOLLIN: Okay. So when I asked  
19 the question the answer wasn't correct?

20 MR. ROBECK: Well --

21 MS. BYROADE: You've got two  
22 spreadsheets in front of the witness, so why  
23 don't you just --

24 MR. BOLLIN: He's only been looking at  
25 one the whole time. Okay. We'll straighten it

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1 out. I'm not trying to fool anybody. I'm just  
2 trying to work off the spreadsheet. I think the  
3 confusion is all over here.

4 MS. BYROADE: Our attention was on  
5 510.

6 MR. ROBECK: Well, the confusion's on  
7 the record.

8 MS. BYROADE: 510 contains more than  
9 what's on 509 and 510 is the sales spreadsheet,  
10 so ...

11 THE WITNESS: Okay. I mean, I don't  
12 think that I said 509 included everything. I  
13 said it includes customers other than Algoma.  
14 BY MR. BOLLIN:

15 Q. Okay.

16 A. And so -- because I know what 510 is,  
17 that we're going to get to in a second, --

18 Q. Right.

19 A. -- and just to clarify everything,  
20 I mean, 509 is just from November of '15 through  
21 the end of '17. And I -- as I understood your  
22 last question, you said November.

23 Q. I did. Yeah.

24 A. Okay.

25 Q. Okay.

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1           A.     So I think this would reflect Southern  
2     Coal Sales' sales from November of 2015 through  
3     the end of 2017.

4           Q.     Okay. And then what is Exhibit 510?

5           A.     Exhibit 510 is an updated version of  
6     509, to include the months -- to include -- in  
7     addition to what's already on 509, to also  
8     include the months of January through October  
9     of 2015.

10          Q.     And why was Exhibit 510 created?

11          A.     When I was going through Exhibit 509  
12     with counsel, I realized that it started in  
13     November of 2015, and I don't know that anyone  
14     realized that before. And the topic for this  
15     deposition was for the entire year of 2015, so  
16     we requested that it be updated.

17          Q.     At the end of Exhibit 510 there's four  
18     entries entitled Algoma with invoice numbers  
19     beginning with 15. Do you see those?

20          A.     Yes.

21          Q.     Okay. Now, 15 means 2015, right?

22          A.     I mean, that would be a typical  
23     invoicing mechanism, yes.

24          Q.     And same thing with the [REDACTED]  
25     entry just before that, [REDACTED], and then

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1 the Invoice Numbers 15DE006, do you see that?

2 A. Yes.

3 Q. Okay. Now, that would mean to you  
4 that these are 2015 invoices, right?

5 A. They're adjustments to 2015 invoices.

6 Q. Okay. And those were not included in  
7 the prior version, 509, but they are included in  
8 510. Do you know why?

9 A. I'm trying to find all those invoices.  
10 My expectation is it's because they all relate  
11 to invoices that were generated pre-November  
12 2015.

13 Q. Okay.

14 A. And so when those invoices were added,  
15 the adjustments to those invoices were also  
16 picked up.

17 Q. Okay. It's just curious to me  
18 that then they're all at the tail end of the  
19 spreadsheet. It looks like they were manually  
20 cut and pasted in there, as opposed to being  
21 imported is from someplace.

22 A. I don't read it that way, but I think  
23 it's because they relate to invoices that were,  
24 most likely, and like I said, I haven't been  
25 able to find them as we've been looking here.

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1 Q. Mm-hmm.

2 A. I would expect that those would  
3 be related to invoices that occurred between  
4 January 1st, 2015, and the end of October 2015,  
5 and that's why they're on here. I can't answer  
6 why they're on the end.

7 Q. Okay. Now, Exhibit 509 in the lower  
8 left-hand corner of the table, which is on the  
9 last page of the exhibit says it's the total  
10 sales 11/2015 to 12/2017 under SCC PO. Do you  
11 see that?

12 A. Yes.

13 Q. Okay.

14 MR. ROBECK: Sorry. Where are you?  
15 I'm sorry.

16 MR. BOLLIN: Yeah, Exhibit 509, last  
17 page, lower left-hand corner of the table.

18 MR. ROBECK: Okay.

19 BY MR. BOLLIN:

20 Q. SCC is Southern Coal Corporation,  
21 right?

22 A. I can't tell what it means on  
23 this, I mean, but, I mean, typically, within  
24 our organization, SCC means Southern Coal  
25 Corporation.

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1           Q.    Okay.  And then if you look at Exhibit  
2           510 in the same spot, last page, lower left-hand  
3           corner it says, total sales 1/2015 to 12/2017  
4           under SCC/SCSC PO, do you see that?

5           A.    Yes.

6           Q.    What does that mean to you?

7           A.    I don't know for sure, but I  
8           would assume that's indicating Southern  
9           Coal Corporation and/or Southern Coal Sales  
10          Corporation.

11          Q.    Okay.  Do you know how these records  
12          are kept internally?  Are they kept under  
13          Southern Coal Corporation's ledger or are they  
14          kept under Southern Coal Sales Corporation's  
15          ledger?

16                   I'm sorry.  I'm using the word ledger  
17          improperly, and it's confusing you, right?

18          A.    Yeah.

19          Q.    So what would you call these  
20          documents, summaries of sales?

21          A.    Of invoices or receivable summaries.

22          Q.    Yeah.

23                   And so --

24          A.    They have a couple different names.

25                   Sorry to interrupt, but they have a couple of

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1 different names.

2 Q. Well, how would you refer to them?

3 A. It could be -- it really depends  
4 on who's asking, shipping summary, accounts  
5 receivable summary, invoicing summary. I mean,  
6 I've heard all of those things.

7 Q. Okay.

8 A. They all mean the same to me.

9 Q. So 509 and 510 are invoicing  
10 summaries. Fair enough?

11 A. Yeah.

12 Q. Okay. Are invoicing summaries kept  
13 for each separate entity?

14 A. Yeah.

15 Q. Okay.

16 A. I don't really under -- I mean,  
17 obviously, anytime someone sells a ton of coal,  
18 they keep track of selling it. So I'm afraid  
19 I'm not understanding your question.

20 Q. Well, I'm just trying to figure this  
21 out. So the first one, 509, says it's a summary  
22 for Southern Coal Corporation, SCC. The second  
23 one, which incorporates most of the first one --

24 A. Right.

25 Q. -- so 510, says it's for SCC/SCSC.

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1 So I'm just trying to figure out, in your  
2 records, whose sales these are identified as.

3 A. I believe it's Southern Coal Sales  
4 Corporation. I don't know why that distinction  
5 is on that sheet. I'm happy to ask the person  
6 that prepared it. But I don't know why they  
7 changed that.

8 Q. Okay. So they don't keep invoice  
9 summaries for Southern Coal Corporation entities  
10 all under one invoice summary?

11 MR. ROBECK: Objection to form.

12 THE WITNESS: Well, like, in 2015,  
13 for example, all of the sales would have been  
14 through Southern Coal Sales Corporation.

15 BY MR. BOLLIN:

16 Q. Okay.

17 A. So there shouldn't be one independent  
18 from Southern Coal Sales Corporation.

19 Q. Okay. The sales of Southern Coal  
20 Sales Corporation were the same as the Southern  
21 Coal Corporation?

22 MR. ROBECK: Objection; form.

23 THE WITNESS: Southern Coal Sales  
24 Corporation should be all the sales.

25 BY MR. BOLLIN:



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1 Q. Okay. And then that changed in 2016?

2 A. Late 2015 and 2016 is when Bluestone  
3 Energy Sales Corporation started selling all of  
4 the coal, except for Algoma.

5 Q. Are any Bluestone Energy Sales  
6 Corporation sales reflected on Exhibit 509 or  
7 510?

8 A. Yes.

9 Q. What are those?

10 A. So with [REDACTED] and [REDACTED] and [REDACTED] the  
11 original contracts were in the name of Southern  
12 Coal Sales Corporation. But after November of  
13 2015, we asked them to start making payments to  
14 Bluestone Energy Sales Corporation, and they  
15 agreed to do that. They did not formally assign  
16 the contracts, but they started making Bluestone  
17 Energy Sales Corporation. And we, internally,  
18 assigned the contracts to Bluestone Energy Sales  
19 Corporation, and we were administering those as  
20 Bluestone Energy Sales Contracts.

21 Q. Why did they appear on Exhibit 509 and  
22 510?

23 A. It's my understanding because the  
24 original contracts were in the name of Southern  
25 Coal Sales Corporation, they were included.

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1 Q. Let's just work off of one for a  
2 minute so we don't get confused.

3 A. Okay.

4 Q. Let's go with 510.

5 A. Okay.

6 Q. There are many entries here where the  
7 purchaser is identified as Algoma?

8 A. Correct.

9 Q. And that would be Essar Steel Algoma,  
10 Inc., who is the plaintiff in this lawsuit,  
11 right?

12 A. Correct.

13 Q. Okay. Now, am I mistaken that -- I'll  
14 ask this in a positive so we don't get confused  
15 in the answer.

16 Algoma didn't have an agreement with  
17 any Justice entity prior to November of 2015,  
18 did it?

19 A. So Southern Coal Sales or Justice  
20 entities were shipping coal to Algoma through,  
21 and I always for -- I always mess the name up,  
22 Virginia Mining something.

23 Q. Through another third party?

24 A. Yes.

25 Q. Okay. A broker?

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1           A.    I don't know if they were a broker,  
2           per se. I know they guaranteed the performance  
3           of Algoma as it related to payments, and so  
4           without having that agreement in front of me I'm  
5           hesitant to say there was no agreement between  
6           any Justice entity and Algoma, because I know  
7           we were shipping, we being one of the Justice  
8           entities, was shipping coal to Algoma. And it  
9           resulted in a, roughly, \$6 million liability  
10          that is caught up in the bankruptcy.

11          Q.    Are you aware of any contracts between  
12          any Justice entity and Algoma in 2015 prior to  
13          November?

14          A.    I'm not aware of any written  
15          contracts.

16          Q.    Are you aware of any other kind of  
17          contract?

18          A.    Well, I mean, there was, clearly,  
19          an agreement by Algoma to buy coal, and by the  
20          Justice organization, whichever entity that is,  
21          to ship coal to them.

22          Q.    Do you think the two spoke?

23          A.    I don't know how those conversations  
24          went.

25          Q.    Or if they occurred?

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1           A.    I don't know that.

2           MR. BOLLIN:   Take a break?

3           MR. ROBECK:   Sure.

4           (Lunch recess taken.)

5           (Ball Exhibit No. 511, a spreadsheet  
6 created by Mr. Bollin, was marked.)

7 BY MR. BOLLIN:

8           Q.    You've been handed what's been marked  
9 Exhibit 511. This is just my handiwork starting  
10 with Exhibit 509, not Exhibit 510, but 509.

11          A.    Okay.

12          Q.    I took that and we took the purchasers  
13 listed on the far left and created another line  
14 for each of them -- another column for each of  
15 them over on the right. Do you see that? That  
16 way I could just keep track of what purchaser  
17 was buying what.

18          A.    Okay.

19          Q.    Or, I'm sorry, I guess the best way  
20 to say that would be which purchaser was paying  
21 what. Okay?

22               MR. ROBECK:   I'm sorry. This is 509?

23               MR. BOLLIN:   The new one is 511, but  
24 it's based on 509. Yes. Yes. Not 510. I  
25 didn't have 510.

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1 MR. ROBECK: It's just sorted entries?

2 MR. BOLLIN: That's what I did. I  
3 left the original entries on left and added five  
4 new columns on the right. And take a moment to  
5 satisfy yourself that it looks generally  
6 correct, and I don't expect you to --

7 MR. ROBECK: Well, there's no way  
8 we're going to figure that out, but we'll go  
9 with your representation, subject to check.

10 BY MR. BOLLIN:

11 Q. Yeah. But, I mean, you can spot check  
12 a couple anyway, just to satisfy yourself as to  
13 how it works. So, for example, the first line,  
14 the purchaser says [REDACTED] sales amount is  
15 [REDACTED], and the invoiced amount is  
16 [REDACTED]. So what I've done in the right, if  
17 you go over and you see [REDACTED] and first number  
18 underneath there is the invoiced amount, right,  
19 [REDACTED], right?

20 A. Yes.

21 Q. So I just wanted you to understand how  
22 I set it up.

23 A. Okay. Yeah. I think I follow you.

24 Q. And I don't have a whole lot to do  
25 here with this, except I wanted to -- part of my

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1 purpose here was to figure out how much people  
2 were paying between November of 2015 and  
3 December of 2017 under, at the time, for Exhibit  
4 509 for, SCC PO. That's what Exhibit 509 says,  
5 right?

6 A. I think that's right.

7 Yes. That's correct.

8 Q. Okay. And we can all check my math  
9 later to see if the spreadsheet did it right,  
10 but I came up with sales -- I'm sorry, what  
11 would you call this? You would call this  
12 invoiced amounts, right? That's what you're  
13 recording here?

14 A. Yeah. I mean, I think this would be  
15 a summary of accounts receivable or invoiced  
16 amounts. I think they're the same thing.

17 Q. Okay.

18 A. Like I said, some people refer to  
19 these things differently, but I think this is  
20 a summary of invoices and it also reflects what  
21 your accounts receivable summary over the course  
22 of the year was.

23 Q. Okay. And Southern Coal Corporation  
24 and Southern Coal Sales Corporation use an  
25 accrual method of accounting, correct?

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1 A. Yes.

2 Q. Okay. So if there's a sale booked at  
3 a particular time, that's when you count it for  
4 your accounting purposes, right?

5 A. Correct.

6 Q. Okay. You don't wait for the  
7 collections to book it?

8 A. No.

9 Q. Okay. So for 2015, you booked sales  
10 of \$39,223,474.20 from Algoma; is that right?

11 A. I'm sorry. I don't see that number.

12 Q. Did I say 2014 or 2015?

13 A. I see it now. I didn't see this  
14 separate by year down here.

15 Q. Yeah. The total's at the bottom. I'm  
16 sorry.

17 A. Yeah. No, I gotcha.

18 Q. Okay.

19 A. Yeah. Again, taking your caveat  
20 earlier, assuming your math is right, that's  
21 what this reflects, yes.

22 Q. Okay. And a little over 24 million in  
23 sales to Algoma in 2016, correct?

24 A. Yes.

25 Q. Okay. And the total of sales to

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1 Algoma in 2015, 2016 and 2017 is, approximately,  
2 63 million?

3 A. That's what this says, yes.

4 Q. Okay. And that dwarfs any of your  
5 other customers, correct?

6 A. [REDACTED]  
[REDACTED]

8 Q. Are there any significant coal  
9 customers that were missing off of this  
10 spreadsheet?

11 MR. ROBECK: Well, objection just to  
12 significant, whatever you mean by that.

13 THE WITNESS: During this time period  
14 for Southern Coal Sales, just the other ones  
15 that are reflected on what has been marked  
16 as 510, although they're, typically, a spot  
17 purchaser, [REDACTED] has bought a  
18 significant amount of coal from Southern Coal  
19 Sales.

20 BY MR. BOLLIN:

21 Q. And were those sales to [REDACTED] did  
22 they postdate November 1, 2015?

23 A. No, they predate November 1.

24 Anything after November 1 with

25 [REDACTED] would be through Bluestone Energy



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1 Sales.

2 Q. Okay. So Bluestone Energy Sales was  
3 also making coal sales at this time, late 2015  
4 and through 2016?

5 A. After November. I forget the exact  
6 date. It was formed, like, the first half of  
7 November, and so after that point it would have  
8 also been making sales.

9 Q. And were those sales from the same  
10 mines, A&G and Coal Mountain?

11 A. They could be, yes.

12 Q. Were there any other significant  
13 customers of Bluestone during that time period,  
14 November 1, 2015, through the end of 2016?

15 A. Again, on 510 I see that we sold  
16 what appears to be a vessel a Panamax vessel to  
17 [REDACTED]. You know, that's, roughly, [REDACTED] tons,  
18 so that's pretty significant.

19 I think most of the other orders  
20 would have been spot-type orders, so nothing  
21 approaching the 63 million to Algoma.

22 Q. And the [REDACTED] sales, you're talking  
23 about, those also predate November 1, 2015?

24 A. Yes.

25 Q. Did Bluestone sell to [REDACTED] in 2016?

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1           A.    Not that I'm aware of. That's not a  
2           real longstanding relationship, and I think that  
3           was just, basically, a vessel, plus a couple of  
4           additional trains, and so it was -- all in it  
5           was less than a [REDACTED] tons, and I  
6           don't think that that continued.

7           Q.    Did Bluestone sell met coal?

8           A.    Bluestone Energy Sales, or Bluestone  
9           Resources as it's on the org chart? I need to  
10          clarify.

11          Q.    Okay. Yeah. That's fair. Bluestone  
12          Energy Sales Corporation, did they sell met  
13          coal?

14          A.    They sold met coal and steam coal.

15          Q.    To whom?

16          A.    [REDACTED] would be one of their  
17          purchasers. Time frames run together, but  
18          Bluestone also sells to [REDACTED]. You know,  
19          Bluestone Energy Sales has sold to a lot of  
20          the domestic steel mills, [REDACTED], [REDACTED],  
21          [REDACTED], [REDACTED] And, you know, those sales  
22          today are through Bluestone Coal Sales, but over  
23          the years those are typically the buyers for the  
24          Bluestone Resources, met coal, which, you know,  
25          for a period of time would have been marketed

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1 by Bluestone Energy Sales.

2 Q. You'll have to excuse me, I get  
3 lost with all the Bluestone entity names.  
4 Bluestone -- you just identified Bluestone Sales  
5 Corporation and then you said the one that's  
6 operating now is Bluestone ...

7 A. Coal Sales --

8 Q. -- Coal Sales --

9 A. -- Corporation.

10 Q. Wait. That is operating now?

11 A. Yes.

12 Q. Oh, okay.

13 And it's Bluestone Coal Sales  
14 Corporation?

15 A. Correct.

16 Q. That's what's operating now?

17 A. Yes.

18 Q. Okay. Which one is not -- which  
19 one has stopped operating? Isn't there one that  
20 has stopped operating?

21 A. Bluestone Energy Sales Corporation.

22 Q. Okay. How do you keep them straight?

23 And that was the standalone company  
24 under -- that was owned -- wholly owned by Jay  
25 Justice?

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1 A. Jim Justice.

2 Q. By Jim Justice?

3 A. But, yes, that's a standalone entity.

4 Q. And that's the entity that took out  
5 the loan that funded the contract with Algoma?

6 A. It was intended to fund Algoma, and,  
7 like I said, that didn't quite work out like we  
8 had hoped because those receivables never were  
9 assigned to Bluestone Energy Sales. So it did  
10 end up, ultimately, financing a lot of other  
11 coal sales that Bluestone Energy Sales was  
12 representing from Justice Family-owned mines, --

13 Q. Okay.

14 A. -- which are the mines we've discussed  
15 here today, but, yes, it's -- it's that entity  
16 that had Carter Bank facility.

17 Q. Did it also -- in addition to funding  
18 other -- other efforts through other coal  
19 companies, did it also end up funding the  
20 Southern Coal Sales Corporation's contract  
21 with Algoma?

22 A. I think that Bluestone Energy Sales  
23 did advance Southern Coal Sales some money.

24 Q. Okay.

25 A. It loaned some money to Southern Coal

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1 Sales.

2 Q. Which, in turn, loaned it to Southern  
3 Coal Sales Corporation?

4 A. That's -- that's who I meant.

5 Q. Okay. That's what I'm asking.

6 A. Yeah.

7 Q. I'm trying to be straight.

8 A. Yeah. I just didn't say corporation.

9 Q. Okay. So it would have been a direct  
10 -- direct loan from Bluestone Energy to Southern  
11 Coal Sales Corporation?

12 A. Again, like we discussed earlier,  
13 without having it in front of me, it could have  
14 flowed through Southern Coal Corporation to  
15 Southern Coal Sales.

16 Q. Okay.

17 A. Or the money could have gone directly  
18 to Southern Coal Sales Corporation. I do  
19 believe, though, even if the money had flowed  
20 directly, the accounting entry would have flown  
21 through Southern Coal Corporation and then down  
22 to Southern Coal Sales Corporation.

23 Q. Okay. And in order to follow that  
24 path, we'd have to look at the ledger?

25 A. Yes.

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1 Q. Now, Bluestone Coal Sales  
2 Corporation --

3 A. I'm sorry.

4 Q. I'm sorry.

5 A. Or I mean the cash -- the bank  
6 statements would show that, as well.

7 Q. Okay.

8 A. You don't necessarily need the ledger.

9 Q. If you have all the bank statements?

10 A. Well, yeah. I mean, the bank -- the  
11 Southern Coal Sales bank statement, you would  
12 be able to tell where the money came from.

13 Q. Well, if it comes from Southern Coal  
14 Corporation, you don't know where Southern Coal  
15 Corporation got the money, right?

16 A. Yes. But you would know that Southern  
17 Coal Sales Corporation received it from Southern  
18 Coal Corporation.

19 Q. Right. Okay. But you won't be able  
20 to tell that it came from somebody who gave it  
21 to Southern Coal Corporation?

22 A. If they did. Like we said earlier,  
23 there could be instances where they did not.

24 Q. Right. We just don't know.

25 Bluestone Coal Sales Corporation

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1 continues to exist and operate today?

2 A. Yes.

3 Q. And what is it selling?

4 A. Today it sells the metallurgical coal  
5 of that Bluestone Group that you're looking at  
6 on Exhibit --

7 Q. 502?

8 A. -- 502, second page.

9 Q. Do you know what mines are involved?

10 A. Today the mines running at the  
11 Bluestone Group of Companies are Red Fox Surface  
12 Mine, which is Justice Energy Company.

13 Q. What does that mean, which is Justice  
14 Energy Company?

15 A. That's the name of the operator.

16 Q. Oh, I see.

17 A. It should be right there near your  
18 pen.

19 Q. Oh, yeah. Okay. So Justice Energy  
20 Company, Inc., owns, what was it?

21 A. It owns and operates the Red Fox  
22 Surface Mine.

23 Q. Okay.

24 A. Pay Car Mining operates what's known  
25 as the 58 Underground Mine. Frontier Coal

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1 Company operates what is known as the 57  
2 Underground Mine. And National Resources,  
3 Inc., operates the 39A Surface Mine.

4 Q. And Bluestone Energy is in the  
5 business of selling National Resources, Inc.,  
6 coal?

7 A. No.

8 Q. Okay.

9 A. Bluestone Coal Sales is, --

10 Q. That's right.

11 A. -- not -- not Bluestone Energy.

12 Q. Okay. Bluestone Coal Sales  
13 Corporation sells coal from National Resources  
14 Mine 39A surface mine?

15 A. Yes.

16 Q. Now, I understand that in 2015  
17 and 2016 Southern Coal Sales Corporation had a  
18 single bank account that changed in 2016. They  
19 went from one bank account at one bank to a new  
20 bank account at a second bank in 2016, is that  
21 fair?

22 A. Yes.

23 Q. Okay. And the first bank account was  
24 with Wells Fargo?

25 A. Yes.



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1 (Ball Exhibit No. 512, Bank statements  
2 from January 2015 through July of 2016, was  
3 marked.)

4 BY MR. BOLLIN:

5 Q. I'm handing you what's been marked  
6 as Exhibit 512, which are the bank account  
7 statements produced to us in litigation Bates  
8 labeled SC --

9 MS. SCHULTZ: They're not sequential.  
10 Sorry.

11 MR. BOLLIN: Oh, okay. Nevermind.  
12 They were not produced to us in a sequential  
13 manner, they have now been put into a  
14 chronological order, and they compromise [sic]  
15 the bank statements from January 2015 through  
16 July of 2016.

17 MS. SCHULTZ: And what we have of  
18 them, there are some months that are missing,  
19 so ...

20 MS. BYROADE: So are these produced  
21 pursuant to the subpoena?

22 MS. SCHULTZ: No. So everyone that  
23 you produced, we used your number. If there are  
24 ones that you didn't produce but Wells Fargo  
25 did, we used the Wells Fargo number.

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1 MR. BOLLIN: Okay. So they're mostly  
2 your numbers.

3 MS. SCHULTZ: They're mostly your  
4 numbers.

5 They may, in fact, be all. I can't  
6 remember.

7 I said they may be all their numbers.  
8 I know that we --

9 BY MR. BOLLIN:

10 Q. First of all, do you recognize the  
11 statements in the exhibit?

12 A. Yeah. Generally, I recognize these to  
13 be monthly bank statements from Wells Fargo.

14 Q. Okay. I'm going to ask you to turn to  
15 Page 22262, which is about 60 percent of the way  
16 through the exhibit.

17 A. Okay.

18 MS. BYROADE: They're not sequential,  
19 so how do we find it?

20 MS. SCHULTZ: It may be easier to tell  
21 him the month, because they are chronological.

22 MR. BOLLIN: Yeah. That was going to  
23 be my next question.

24 BY MR. BOLLIN:

25 Q. Is this the bank statement for

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1 November of 2015?

2 A. Okay.

3 Q. Is this the November 2015 bank  
4 statement for Southern Coal Sales Corporation?

5 A. Yes.

6 Q. What was the beginning balance that  
7 month?

8 A. [REDACTED]

9 Q. What was the ending balance?

10 A. [REDACTED]

11 Q. How was this account used by Southern  
12 Coal Sales Corporation?

13 A. To -- I mean, just like any other bank  
14 account would be used, to receive -- receive  
15 payments from coal buyers. And then, you know,  
16 from there the money was used as it was -- as  
17 determined by management.

18 Q. Management being Mr. Justice?

19 A. Jay Justice.

20 Q. Now, if you'll take a look at the  
21 November 5th entry on the first page, this  
22 appears to be the first payment from Algoma  
23 under the original agreement with Southern Coal  
24 Sales Corporation. Do you see that payment?

25 A. Yes.

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1 Q. And what's the amount?

2 A. [REDACTED]

3 Q. Okay. If you turn the page to debits  
4 on the next page, you see an entry on November  
5 6th for [REDACTED]. Do you see that?

6 A. I do, yes.

7 Q. And it says it's an online transfer to  
8 an Account Number [REDACTED]. Do you know who  
9 the owner of that account is?

10 A. Yes. I need some assistance, though.

11 Q. Sure.

12 A. Southern Coal Corporation.

13 Q. Do you know why that payment was made  
14 to Southern Coal Corporation?

15 A. I can't tell from the bank statement,  
16 but consistent with our discussion earlier, it  
17 would -- it would be as a repayment of money  
18 that had been previously advanced to Southern  
19 Coal Sales by Southern Coal Corporation.

20 Q. So if we were to go back through the  
21 prior deposits in 2015 we would be able to find  
22 transfers from Southern Coal Corporation, which  
23 would represent a loan to Southern Coal Sales  
24 Corporation?

25 A. Or it could be earlier. It doesn't

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1 have to be in 2015. Southern Coal Sales  
2 Corporation has been around since, I believe,  
3 2010. So, I mean, there's just no way to know  
4 specifically without looking at it, but the loan  
5 could be from 2011 or '12 that Southern Coal  
6 Sales is just now paying back.

7 Q. And there's no documentation of that  
8 loan, other than what we can find in your bank  
9 statements, right?

10 A. Well, no. That's the --

11 MS. BYROADE: Asked and answered.

12 THE WITNESS: That's the transactions  
13 that are recorded on the books of each company.  
14 BY MR. BOLLIN:

15 Q. So that would be on the ledger?

16 A. Yeah.

17 Q. Is there a running tally someplace?

18 A. It would be on that.

19 So if you ran a summary of the  
20 intercompany accounts, it would show you what  
21 the balance is. And, again, that's the general  
22 ledger. That would just be a different report  
23 that you'd ask the accounting system to  
24 generate.

25 Q. Okay. Do you know how much Southern

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1 Coal Corporation loaned to Southern Coal Sales  
2 Corporation in 2015?

3 A. Not the specific amount in 2015.

4 Q. Do you know how much Southern Coal  
5 Corporation loaned to Southern Coal Sales  
6 Corporation in 2016?

7 A. Not specifically, no. I mean, I think  
8 we can tell how much was sent to them by going  
9 through these statements, but I don't know those  
10 amounts off the top of my head.

11 Q. Are any amounts received from Southern  
12 Coal Corporation automatically loans? Do they  
13 have to be loans?

14 A. Typically, anytime a parent or  
15 shareholder loans money to a subsidiary, it's  
16 initially treated as a loan. There have been  
17 times where those loans have been converted  
18 to equity and capitalized, but the initial  
19 treatment has always been a loan.

20 Q. And where do we look to see if a  
21 loan's been capitalized?

22 A. You would see it -- you would see  
23 it within the detail of the shareholder loan  
24 account, general ledger, again.

25 Q. Okay. And, also, we can tie it back

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1 to the statements, if you want, but really what  
2 I really want to know is who owns the different  
3 account numbers. So why don't I go through  
4 those. If you can tell me who owns them, great.  
5 If you can't, we'll go to the statements and  
6 figure it out.

7 [REDACTED]  
8 A. That's also Southern Coal Corporation.

9 Q. Do you know the purpose in the  
10 different accounts, or behind the different  
11 accounts?

12 A. Not right offhand, because, typically,  
13 we only have separate accounts if -- and  
14 we don't do this anymore, but historically  
15 sometimes there would be a payroll account  
16 that was separate from an operating account.  
17 But Southern Coal Corporation does not have  
18 employees, so I need to go back and double-check  
19 that.

20 Q. Okay. Who owns account number  
21 [REDACTED]

22 MR. ROBECK: What were the numbers,  
23 just the last four?

24 MR. BOLLIN: [REDACTED]

25 THE WITNESS: Do you have a transfer

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1 on here because I don't have that in my notes?

2 BY MR. BOLLIN:

3 Q. Sure. Yeah. The date I have on that  
4 is March 22, 2016.

5 MR. ROBECK: That's money coming in,  
6 right?

7 MR. BOLLIN: Yeah. It's a deposit.

8 THE WITNESS: I can't tell from  
9 looking at this.

10 BY MR. BOLLIN:

11 Q. Okay. What about Account Number

12 [REDACTED]

13 A. Bluestone Resources, Inc.

14 My notes only have the last four.  
15 If you need to read the whole account for the  
16 record, that's fine, but if --

17 Q. [REDACTED] is that what you're saying?

18 A. Yeah. I'd defer to you, though.

19 Q. Okay. All right. Account number

20 [REDACTED], is that what we just did?

21 A. That's what we just discussed,  
22 Bluestone Resources.

23 Q. Okay. [REDACTED] That one only appears  
24 once for [REDACTED] Let's skip to the next one.

25 A. Okay.



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1 Q. [REDACTED]?

2 A. James C. Justice Companies, Inc.

3 Q. [REDACTED]

4 A. Encore Leasing, LLC.

5 Q. Encore?

6 A. Yes. E-n-c-o-r-e.

7 Q. Is that a Justice Company?

8 A. It -- it is owned by the Justice  
9 family.

10 Q. Directly by the family?

11 A. Yes.

12 Q. What's the business of Encore Leasing?

13 A. It owns aircraft.

14 Q. So a payment to Encore Leasing  
15 would typically be to pay for the lease of an  
16 aircraft?

17 A. That's what I would expect it to be,  
18 yes.

19 Q. Who owns Account [REDACTED]

20 A. Southern Coal Corporation.

21 Q. And who owns Account [REDACTED]

22 A. I'm sorry. Can you repeat?

23 Q. Yes. [REDACTED].

24 MR. ROBECK: Where's the entry on it?

25 MR. BOLLIN: That one's a one-time

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1 entry for \$ [REDACTED] Let's skip it.

2 BY MR. BOLLIN:

3 Q. Who owns account [REDACTED]

4 MR. ROBECK: Where's the entry on  
5 that? That's 1/11/2016. It's very small.  
6 1/13/2016.

7 THE WITNESS: What was the last four  
8 again?

9 BY MS. BOLLIN:

10 Q. [REDACTED].

11 A. I don't believe that's a Justice  
12 account. I don't see it anywhere.

13 Q. Okay. Who owns account [REDACTED]

14 A. Justice Family Farms, LLC.

15 Q. Account Number [REDACTED], whose is that?

16 A. James C. Justice Companies, Inc.

17 Q. Sorry. I've come across a couple that  
18 you've identified already, so I'm skipping.

19 All right. [REDACTED]

20 MR. ROBECK: Where is that one?

21 MR. BOLLIN: December 8, 2015, debit.

22 THE WITNESS: I don't know who that  
23 is.

24 BY MR. BOLLIN:

25 Q. Okay. Next I've got a Chase E-Pay

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1 statement on February 17 of 2016.

2 MS. BYROADE: Is that a different  
3 exhibit?

4 BY MR. BOLLIN:

5 Q. It shouldn't be. It says Chase,  
6 though, doesn't it?

7 Well, I got it off of this debit  
8 statement, so I think it was a payment to Chase,  
9 a Chase account, that is, \$[REDACTED] on February  
10 17th, Page 22185.

11 A. I -- I can't tell what that is.

12 Q. Okay. Next up I'd like to know to  
13 whom a payment was made on March 7, 2016?

14 Yeah, March 7, 2016, it's got a  
15 Pacific Coast Bank, First National Bank  
16 transaction detail, [REDACTED].

17 MR. ROBECK: You're talking about the  
18 payment coming in?

19 MR. BOLLIN: Is that a deposit?  
20 No, it's a debit, on Page [REDACTED].

21 MS. BYROADE: It says it's a credit.  
22 You're talking about the one that says Pacific  
23 Coast Bank, First National Bank?

24 MR. BOLLIN: Yeah. That one.

25 THE WITNESS: I can't tell who that

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1 is.

2 BY MR. BOLLIN:

3 Q. Okay. So sitting here today, is it  
4 possible for you to tell us the reason behind  
5 the transfers of money to these entities we just  
6 identified in the Wells Fargo Bank statements?

7 A. It would be repayment of loans that  
8 had previously been made to Southern Coal Sales  
9 Corporation, or, possibly, it could be to  
10 Southern Coal Corporation, as well. But  
11 it would be for repayment of loans that had  
12 previously been advanced.

13 Q. Okay. And do you know that or are you  
14 assuming it?

15 A. No, that's why Southern Coal Sales  
16 would send the money to these entities.

17 Q. Okay. And, again, in order to find  
18 out how much Southern Coal Sales Corporation  
19 owed to each of these entities, we would need  
20 to look at a summary of intercompany accounts?

21 A. Specifically, by entity. I mean, we  
22 know the total amount from the balance sheet.  
23 But if you want to know by entity, you would  
24 have to look at the general ledger.

25 Q. And that would tell us when the debt

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1 was incurred and when it was paid back, if it  
2 was paid back?

3 A. It would tell you the interaction.

4 Typically, these are multiple  
5 advances, not a single large advance, and the  
6 repayments don't always match up perfectly to  
7 the advance. So you may have one -- you could  
8 have one advance and multiple repayments, or  
9 you could have multiple advances and one  
10 large repayment. They don't always match up  
11 perfectly, but, yes, that detail would tell you  
12 the history between those two entities.

13 Q. This is Exhibit 512 we're looking at?

14 A. Yes.

15 Q. Okay.

16 (Ball Exhibit No. 513, the monthly  
17 bank statements for Southern Coal Sales  
18 Corporation from Chase, dated June of 2016  
19 through April 2017, was marked.)

20 BY MR. BOLLIN:

21 Q. Here's Exhibit 513. Do you know what  
22 this exhibit is?

23 A. These appear to be the monthly bank  
24 statements for Southern Coal Sales Corporation  
25 from Chase.

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1 Q. And they're dated June of 2016 through  
2 April 2017?

3 A. Yes.

4 Q. I'm going to go through a similar  
5 exercise here, --

6 A. Okay.

7 Q. -- but there aren't as many state  
8 -- accounts that we need to identify, so it  
9 should go a little faster.

10 Do you know who the owner of Account  
11 Number [REDACTED] is?

12 A. Bluestone Energy Sales Corporation.

13 Q. Who owns Account [REDACTED]?

14 A. Can you tell me where that one is?

15 Q. Sure.

16 Well, it's a one-time payment.  
17 September 6th, 2016.

18 A. What was the numbers again?

19 Q. Sure. It ends with [REDACTED].

20 MR. ROBECK: I'm not finding it.

21 MR. BOLLIN: Yeah. I'm not either.

22 Let me look.

23 BY MR. BOLLIN:

24 Q. Okay. I've got the number written  
25 down wrong, probably. Let me see here. It's

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1 the [REDACTED] deposit on September 6th. That's  
2 what I'm asking about.

3 A. I can't tell, other than it came from  
4 Carter Bank & Trust. I can -- I -- I don't know  
5 if that's one of our accounts or not, but like  
6 I said earlier, we, obviously, bank with -- we  
7 borrow money. We don't run bank accounts with  
8 Carter Bank & Trust.

9 Q. Mm-hmm.

10 A. But I can't tell, specifically, what  
11 that particular deposit is for.

12 Q. Okay. Or who's making the deposit,  
13 right?

14 A. Right. I just can't tell, other than  
15 it appears to have initiated from Carter Bank &  
16 Trust.

17 Q. Okay. Who's the owner of Account  
18 Number [REDACTED]

19 A. Bluestone Energy Sales Corp.

20 MS. BYROADE: That's asked and  
21 answered.

22 BY MR. BOLLIN:

23 Q. I said the wrong number. I really  
24 apologize.

25 It is [REDACTED]

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1 A. Southern Coal Corporation.

2 Q. And hopefully we'll have a bunch of  
3 repeats here and it will be easy.

4 Who owns Account [REDACTED]

5 A. Southern Coal Sales Corporation.

6 Q. Southern Coal Sales Corporation?

7 A. That's what my notes have.

8 Q. As opposed to Southern Coal  
9 Corporation?

10 A. I'm happy to double-check it, but the  
11 notes I'm referring to show that it's Southern  
12 Coal Sales Corporation.

13 Q. Okay. Then, I mean, that would be a  
14 third bank account that we didn't know about,  
15 right?

16 MR. ROBECK: What do you mean that we  
17 didn't know about?

18 MR. BOLLIN: Well, I mean, I asked  
19 you at the beginning of this, you had two banks  
20 account, right? Yes, we had two bank accounts.

21 THE WITNESS: Well, that's one of  
22 the ones on this statement, now that I look at  
23 it. It's the savings --

24 MR. BOLLIN: Okay.

25 THE WITNESS: -- that's linked to the



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1 checking account.

2 BY MR. BOLLIN:

3 Q. So they transferred to savings?

4 MS. BYROADE: So you did know about  
5 it?

6 BY MR. BOLLIN:

7 Q. So it's a transfer to savings?

8 A. Yeah. These two accounts are linked  
9 together.

10 Q. Okay. So if you look at that  
11 statement from July of 2016, it shows that  
12 transfer from the checking account to the  
13 savings account [REDACTED] Do you see  
14 that, or I guess it's a money market account,  
15 right?

16 A. Yes.

17 Q. Okay. And if you turn to the last  
18 -- the next page, it's got the savings summary,  
19 and it shows deposits of a little over [REDACTED]  
20 and withdrawals of the same amount, right?

21 A. Yes.

22 Q. And those withdrawals are being  
23 transferred to the Bluestone -- one of the  
24 Bluestone accounts. Which Bluestone entity  
25 is that? [REDACTED], that's Bluestone Energy Sales

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1 Corporation?

2 A. Correct.

3 Q. Do you know why the money was  
4 transferred to the savings account prior  
5 to being transferred to Bluestone Energy?

6 MR. ROBECK: Objection; form.

7 THE WITNESS: Only for, you know,  
8 typical why you would put money in a money  
9 market account. But it appears to be very  
10 quick, so I'm not sure -- I'm not sure what that  
11 would accomplish, and I don't recall us doing  
12 that at the time, so I'm not sure why that  
13 happened.

14 BY MR. BOLLIN:

15 Q. Okay. Do you know which entity owned  
16 Account Number [REDACTED]

17 A. That's Bluestone Resources, Inc.

18 Q. If you turn to the statement for  
19 January 4 of 2017, --

20 A. Okay.

21 Q. -- do you see it, first page is Bates  
22 stamped 22009.

23 A. Okay. I'm there.

24 Q. On the second page, 22010, it has  
25 several -- references several checks cut, do

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1           you see that, Checks 1002 through 1007?

2           A.     Yes.

3           Q.     The next -- two pages later it  
4           actually has images of those checks?

5           A.     Yes.

6           Q.     And these are checks totaling  
7           approximately \$ [REDACTED], and they're all made  
8           out to Carter Bank & Trust. Do you see that?

9           A.     I do, yes.

10          Q.     Why was Southern Coal Sales  
11          Corporation cutting checks to Carter Bank &  
12          Trust in December of 2016?

13          A.     I can't tell from the face of the  
14          checks what these are specifically for, but,  
15          based on the amounts, I believe those are loan  
16          payments for loans from various Justice-owned  
17          entities to Carter Bank & Trust.

18          Q.     Did Carter Bank & Trust make any loans  
19          to Southern Coal Sales Corporation itself?

20          A.     No.

21                     (Ball Exhibit No. 514, the tax return  
22          for Southern Coal Corporation for 2013, was  
23          marked.)

24          BY MR. BOLLIN:

25          Q.     I'm handing to you Exhibit 514. Let

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1 me know if you recognize the exhibit.

2 A. This appears to be the tax return for  
3 Southern Coal Corporation for 2013.

4 Q. Now, it starts off with a document  
5 called, Qualified Subchapter S Subsidiary  
6 Election. Do you see those forms?

7 A. Yes.

8 Q. What are these forms?

9 A. When your parent company is a -- an  
10 S Corporation, which, basically, allows it to  
11 have pass-through status for tax purposes, you  
12 file a similar form on behalf of each of the  
13 subsidiaries to qualify them under the same  
14 manner. That way their income and loss is  
15 passed through to the parent, and then the  
16 parents', basically, passes through to the  
17 shareholders.

18 Q. Okay. Now, unlike the other tax  
19 returns that we're going to take a look at from  
20 2014 onward, this one indicates that it's filed  
21 on behalf of Southern Coal Corporation, and it  
22 does not say that it's also being filed on  
23 behalf of any subsidiaries. Do you see that?

24 A. Where are you?

25 Q. I went to the first page of the tax

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1 return itself, 22354.

2 I'm sorry, that's Texas -- Kentucky.

3 I'm at the wrong page.

4 22309.

5 A. Okay. Where are you?

6 Q. At the top it says, name, Southern  
7 Coal Corporation?

8 A. Yes. I see that.

9 Q. Okay. So unlike the other tax returns  
10 we're going to look at, this one indicates it  
11 was filed for Southern Coal Corporation. It  
12 doesn't identify any other entities that it  
13 was filed on behalf of. Do you know why?

14 MR. ROBECK: And let me just say for  
15 the record that since we agreed that the time  
16 period of the deposition would start in 2015, we  
17 did not go back to 2013.

18 MR. BOLLIN: Okay.

19 MR. ROBECK: So he may or may not  
20 know, but we certainly didn't prepare to -- have  
21 the witness prepare to answer questions about  
22 2013.

23 THE WITNESS: I think it's just  
24 the way the preparer presented it, because the  
25 tax return is Southern Coal Corporation's tax

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1 return, but the subsidiaries are definitely  
2 included within the return.

3 BY MR. BOLLIN:

4 Q. Where it says, signature of officer,  
5 it's got your name typed; is that right?

6 A. Yes.

7 Q. Okay. Did you approve this tax  
8 return?

9 A. I would have definitely signed this  
10 tax return, --

11 Q. Okay.

12 A. -- yeah.

13 Q. It also says that it was prepared by a  
14 non-paid preparer. Do you know who prepared the  
15 tax return?

16 A. Brian Rice.

17 Q. Who is that?

18 A. Brian Rice, R-i-c-e.

19 Q. Who's Brian?

20 A. At the time he was a CPA that worked  
21 for one of the Justice Companies.

22 Q. Southern Coal Sales Corporation was a  
23 subsidiary of Southern Coal Corporation in 2013,  
24 right?

25 A. Yes.

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1 Q. Was this tax return meant to include  
2 Southern Coal Sales Corporation, as well?

3 A. It's my understanding that it should  
4 have. I need to find the subsidiary schedule.

5 Q. I believe it's on Page 22334.

6 A. Yeah. I don't see it on there. I  
7 don't know why.

8 MR. ROBECK: That's a schedule of  
9 companies they own the stock in.

10 MS. BYROADE: In other words, it's  
11 a schedule for -- it's a statement for Schedule  
12 B on Page 2 of the return that asks about  
13 corporations in which Southern Coal Corporation  
14 owns stock.

15 BY MR. BOLLIN:

16 Q. Okay. I don't think there is a  
17 statement that lists -- unlike 2014, '15, '16,  
18 '17, I don't see a statement that lists any  
19 subsidiaries. So I'm just trying to figure out  
20 if this is Southern Coal Sales Corporation's  
21 return or not.

22 A. I'm not aware of Southern Coal Sales  
23 Corporation ever filing a standalone tax return.

24 Q. So this tax return exhibit -- that's  
25 included in Exhibit 514 was intended to be the

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1 tax return filed on behalf of Southern Coal  
2 Sales Corporation?

3 MR. ROBECK: Well, the witness didn't  
4 prepare to answer questions about 2013 tax  
5 returns, so, you know, I mean, that's five years  
6 ago.

7 If he knows, fine, but, you know, he  
8 doesn't need to speculate either.

9 MR. BOLLIN: Okay.

10 (Ball Exhibit No. 515, the 2014 income  
11 tax return for Southern Coal Corporation and  
12 subsidiaries, was marked.)

13 BY MR. BOLLIN:

14 Q. We've just had marked Exhibit 515,  
15 which I believe to be the 2014 income tax return  
16 for Southern Coal Corporation and subsidiaries;  
17 is that correct?

18 A. Yes.

19 Q. It indicates that it was to be signed  
20 by the VP and COO. Were you the VP and COO in  
21 2014?

22 A. I think they're combining two titles  
23 there. It was actually vice president of  
24 operations, so I think -- I think that may  
25 be -- I mean, probably the same practical



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1 effect, --

2 Q. Okay.

3 A. -- but my recollection is I signed  
4 this one, as well.

5 Q. All right. The copy we have is,  
6 apparently, a file copy or something?

7 A. Yeah.

8 Q. Okay. But this is a true and  
9 accurate copy of what was filed on Southern  
10 Coal Corporation and its subsidiaries in 2014?

11 A. I believe so, yes.

12 Q. Okay. Now, this tax return does  
13 include schedules that reflect revenue,  
14 expenses, assets and liabilities of  
15 subsidiaries, and that includes --

16 MS. BYROADE: Just for the record,  
17 these are not the complete file, correct,  
18 because these are the ones I printed today?

19 MS. SCHULTZ: Sorry. It's just  
20 federal. So this is the complete federal tax  
21 return, --

22 MS. BYROADE: Right.

23 MS. SCHULTZ: -- but it does not  
24 include the state. It's not exactly as  
25 produced. But just for ease of saving the

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1 earth, we included the federal portion only.

2 MS. BYROADE: Yeah. Great.

3 BY MR. BOLLIN:

4 Q. Okay. If you can go to the page  
5 marked 22598 within Exhibit 515.

6 A. Okay.

7 Q. This reports the combined revenue and  
8 expenses for 11 sub-entities for 2014, correct?  
9 It goes on to the next page.

10 A. Yes.

11 Q. Okay. What was the combined revenue  
12 of all these sub-entities, upper left corner?

13 A. [REDACTED]

14 Q. Okay. And how much of that came from  
15 Southern Coal Sales Corporation?

16 A. [REDACTED]

17 MR. ROBECK: And just for the record,  
18 we're, again, a year before the agreed-upon time  
19 period for the deposition, right?

20 MR. BOLLIN: Okay. Yes. Thank you.

21 (Ball Exhibit No. 516, the federal tax  
22 return for Southern Coal Corporation and its  
23 subsidiaries from 2015, was marked.)

24 BY MR. BOLLIN:

25 Q. You've been handed Exhibit 516, which

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1 is the federal tax return for Southern Coal  
2 Corporation and its subsidiaries from 2015.

3 MS. SCHULTZ: And, again, for the  
4 record, this is just the federal portion that's  
5 shortened from the complete version that was  
6 produced to us.

7 BY MR. BOLLIN:

8 Q. Do you recognize the document?

9 A. It's the 2015 tax return for Southern  
10 Coal Corporation and subsidiaries.

11 Q. And, again, this looks like a file  
12 copy. Is this identical to the copy that you  
13 signed and filed on behalf of Southern Coal  
14 Corporation and its subsidiaries?

15 A. I can't say for sure if I signed this  
16 one.

17 Q. Do you know who did?

18 A. I don't know who did.

19 Q. Do you know if this is a true and  
20 accurate copy of Southern Coal Corporation  
21 subsidiary's tax filing for 2015?

22 A. I believe it to be so, yes.

23 Q. If you turn to Page 22767, again,  
24 we've got the combined and consolidated revenue  
25 and expenses for subsidiaries. Now we're down

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1 to six entities, as opposed to 11 on the prior  
2 year, right?

3 A. Yes. Six not counting Southern Coal  
4 Corporation, right.

5 Q. Right. Six subsidiaries, right?

6 A. Right. Yeah. You may have said that.  
7 As I was counting it I just --

8 Q. Okay. And first of all, what happened  
9 to the other five entities?

10 A. They were Kentucky Fuel Corporation  
11 and A&G coal Corporation, Justice Low Seam  
12 Mining and Virginia Fuel Corporation were spun  
13 off to be standalone entities. That was  
14 finance-driven. Similar to the Bluestone Energy  
15 Sales Conversation we had earlier, they had  
16 the ability to obtain financing as standalone  
17 entities, whereas, being part of the Southern  
18 Coal Corporation structure made it more  
19 difficult.

20 I haven't put them side by side. I  
21 think I named four. I don't know what the fifth  
22 one was.

23 Q. Do those entities continue today?

24 A. Yes.

25 Q. Are they active?

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1 A. No.

2 Q. Were they associated with particular  
3 mines?

4 A. Yes.

5 Q. And those mines aren't being mined  
6 today?

7 A. No.

8 Q. The combined receipts and sales, the  
9 combined revenue in 2015 from all these entities  
10 was [REDACTED]; is that right?

11 A. Correct.

12 Q. That's a lot less than the prior year,  
13 where it was [REDACTED], correct?

14 A. Yes.

15 Q. Do you know why?

16 A. I know in 2015 it was a very bad year  
17 for the coal market, in general, so I would -- I  
18 would hazard a guess that that's the primary  
19 reason. And then I think also just not having  
20 the other five entities in here would,  
21 obviously, have an impact. But the coal  
22 market would be the main reason.

23 Q. The largest contributor to the  
24 gross receipts was sales from Southern Coal  
25 Sales Corporation at [REDACTED], correct?

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1 A. Yes.

2 Q. And I think we've already determined  
3 that a substantial portion of that came from  
4 Algoma, is that fair to say?

5 A. I think that's fair, yes.

6 Q. Let's go back and take a look at  
7 Exhibit 511.

8 The 2015 receipts from Algoma were  
9 \$39,223,474.20 between November of 2015 and  
10 December of 2017 -- strike that. I apologize.  
11 I just screwed up the dates.

12 There were receipts of \$39,223,474.20  
13 from Algoma in November and December of 2015,  
14 correct?

15 A. Yes.

16 Q. So that number's [REDACTED] what  
17 appears as gross receipts or sales from Southern  
18 Coal Sales Corporation on the 2015 return and  
19 schedule that's at Page 22767.

20 A. Yeah.

21 Q. Do you know why?

22 A. I mean, this is not an accounting  
23 record, per se. This is --

24 Q. Which is?

25 A. 511.

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1 Q. Okay.

2 A. Exhibit 511 is not an accounting  
3 record, per se. It's just a list of when  
4 shipments were made and things like that.

5 There -- you could have some timing  
6 differences on tax returns. You know, I've seen  
7 that before. In the grand scheme of things, I  
8 mean, [REDACTED] dollars is a lot of  
9 money, but I would expect it to be in some type  
10 of timing difference between when something was  
11 booked and maybe it got reclassified, maybe  
12 there was an adjustment, but I would assume it's  
13 something along those lines.

14 Q. Okay. What could we look at to try to  
15 determine the reason for the difference between  
16 the receipts that SCSC received from Algoma in  
17 2015 and the gross receipts or sales reported in  
18 the 2015 return?

19 MR. ROBECK: Let me just object for  
20 a second, because I think you used the word  
21 receipts intending to describe Exhibit 511,  
22 and I'm not sure if that's been established,  
23 that those were actual receipts, as opposed to  
24 a list of transactions that were never booked.  
25 I --

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1 MR. BOLLIN: I think they have, but  
2 let me go through it, just to make sure.

3 BY MR. BOLLIN:

4 Q. You account on an accrual basis.

5 Yes?

6 A. Yes.

7 Q. When you make a sale, whether or not  
8 you've received the money, you report the money  
9 that you billed -- you report the money that you  
10 are owed?

11 A. Yes.

12 Q. Okay. So you would expect, aside from  
13 maybe some small timing issues, the amount of  
14 money invoices and reflected on Exhibit 509 and  
15 then again on Exhibit 511 to relate pretty  
16 closely to the gross relates for sales on your  
17 schedule in the 2015 return, right?

18 A. Yes. But you could have had  
19 adjustments to these, as we saw earlier. So  
20 it could be that. Like I said, it could be a  
21 timing difference. Maybe something on this --  
22 because this is, basically, an Excel  
23 spreadsheet, maybe something here wasn't  
24 recording on here right timing-wise. And so  
25 when the accountants went back and looked at it



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1 at year-end, maybe it to got adjusted for the  
2 books and tax return but it wasn't adjusted on  
3 the spreadsheet. There's a lot of things like  
4 that that could happen.

5 Q. And that's what I'm asking about.

6 A. Yeah.

7 Q. So you referred to timing and  
8 adjustments. Is that the same thing, or are you  
9 talking --

10 A. No.

11 Q. Okay. What adjustments are you  
12 referring to?

13 A. So adjustments could be sometimes  
14 weights are estimated, and you don't know the  
15 weights immediately. There could be a weight  
16 adjustment. Sometimes you have premiums or  
17 penalties, so you could have a price adjustment  
18 to the original invoice. And those can happen  
19 later in time, so maybe they were captured  
20 before the end of the year, or maybe they  
21 weren't, and then -- but the tax preparer  
22 said, because that relates to a shipment that  
23 occurred in that taxable year, we have to adjust  
24 the price. So you do see things like that  
25 happen.

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1                   Timing is sometimes people just purely  
2                   book something, say, on December 30th for the  
3                   purposes of the spreadsheet, and then it turns  
4                   out it didn't actually load until January 5th,  
5                   and so you have a timing adjustment, as well.  
6                   So it could be a couple of different things.

7                   Q.     So my question from a few minutes ago  
8                   was, where would we look in order to determine  
9                   what those adjustments were, what the timing  
10                  issues may have been that would cause the  
11                  invoiced amounts in Exhibit 509 and 511 to  
12                  differ or exceed the gross receipts or sales  
13                  amount for Southern Coal Sales Corporation in  
14                  the year 2015?

15                 A.     You would have to see what,  
16                 specifically, the tax preparer was relying on  
17                 when he generated this schedule, which I would  
18                 expect to be the balance sheet and financial  
19                 records of the company.

20                 Q.     Okay.

21                 A.     I mean, he wouldn't have any other  
22                 information to base that on.

23                 Q.     So let's go back and look at the  
24                 financial -- I'm sorry, the balance sheet.  
25                 We had that before, right?

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1 A. What year is this?

2 Q. Yeah. 2015.

3 A. 2015. Okay.

4 Q. All right. So Exhibit 505.

5 A. Yeah.

6 Q. Okay. Now, this doesn't break things  
7 down by entity, right?

8 A. Well, this is just Southern Coal  
9 Sales --

10 Q. Oh, okay.

11 A. -- Corporation.

12 Q. Yeah. You're right. It's for  
13 Southern Coal.

14 So here it's got receivables listed [REDACTED]

[REDACTED] Did I read that right? Over [REDACTED]  
[REDACTED]

17 A. Oh, you're on the balance sheet?

18 Q. Yeah.

19 A. For that number, I would look at the  
20 income statement.

21 Q. Okay. Let's look at the income  
22 statement.

23 All right. So there we've got coal  
24 sales of [REDACTED], right?

25 A. Yep. Yep.

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1 Q. All right. That's even more than what  
2 was listed in the 2015 return, right?

3 A. Well, but not if you add the [REDACTED]  
4 amount to the Algoma amount. Because this would  
5 not be specific to Algoma. This would be for  
6 Southern Coal Sales as a whole.

7 Q. Well, so is the 2015 tax return,  
8 right?

9 A. Yeah. Yeah.

10 Which as you're going to see, though,  
11 for general -- for revenue, you have adjustments  
12 to the top-line revenue number. There's a  
13 negative adjustment here of \$[REDACTED].

14 Q. Okay. What's that adjustment for?

15 A. Typically, that is, because it's not  
16 premiums or penalties, that's going to be if you  
17 have to take, like, a bad debt write-off on our  
18 books, that shows up as general revenue.

19 On Southern Coal Sales, that's,  
20 typically, what that would be, is it something  
21 like a bad debt write-off.

22 Q. And do you know whose bad debt that  
23 was?

24 A. I can't tell just by looking at that.

25 Q. How could we tell?

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1 MR. ROBECK: It's probably a payment  
2 Algoma didn't make --

3 THE WITNESS: I mean, it's very likely  
4 it is something like that, but you would look at  
5 the -- you'd have to look at the general ledger  
6 again.

7 BY MR. BOLLIN:

8 Q. Okay. When the five entities that  
9 used to be part of Southern Coal Corporation in  
10 2013 were spun off, and 2014 were spun off to be  
11 their own entities in 2015, did Southern Coal  
12 Corporation receive some sort of compensation  
13 for that?

14 A. No. No. It was done under -- I may  
15 get the code sections wrong here, but it was  
16 done under Sections, I think, 351, 353 and 365  
17 of the Internal Revenue Code. And if you do --  
18 on a closely held business, if you do a spinoff  
19 and the identical percentage is of the existing  
20 parent company, it's a tax-free transaction  
21 without consideration.

22 And I think they were allowed to do  
23 that because they had current status as an  
24 S Corporation, and after the fact they had  
25 identical ownership and they were still

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1 pass-through entities.

2 (Ball Exhibit No. 517, the 2016  
3 Southern Coal Corporation subsidiary's tax  
4 return, was marked.)

5 BY MR. BOLLIN:

6 Q. You've been handed Exhibit 517,  
7 which is the 2016 Southern Coal Corporation  
8 subsidiary's tax return. Is this a true and  
9 accurate copy of the tax return filed on  
10 behalf of Southern Coal Corporation and its  
11 subsidiaries?

12 A. Yes, I believe so.

13 MR. ROBECK: Sorry. What number was  
14 this?

15 MR. BOLLIN: 517.

16 BY MR. BOLLIN:

17 Q. And do you know if you reviewed,  
18 approved and signed this return?

19 A. I don't recall signing this one. I  
20 don't think it was me.

21 MR. ROBECK: And, again, this is just  
22 the federal?

23 MR. BOLLIN: Again, this is just  
24 the federal. These are all just the federal.

25 THE WITNESS: And would it be okay if

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1 we took just a moment?

2 MR. BOLLIN: Oh, yeah. Of course.

3 Yeah, whenever you want a break, just say so.

4 THE WITNESS: Okay. I just need a  
5 minute.

6 MR. BOLLIN: Okay.

7 (Recess taken.)

8 BY MR. BOLLIN:

9 Q. All right. Do you have Exhibit 517 in  
10 front of you?

11 A. I do.

12 Q. All right. If you could turn to the  
13 page marked 22995 within Exhibit 517.

14 A. Okay.

15 Q. Do you see it? It's the combined  
16 trader business income and deductions page.

17 A. Yes.

18 Q. And, again, this is the same form  
19 we've been looking at for the other tax returns  
20 listing the receipts, et cetera, of Southern  
21 Coal Corporation and its subsidiaries, correct?

22 A. Yes.

23 Q. Okay. Now we're down to four  
24 subsidiaries whereas before we had five. Who  
25 did we lose?

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1           A.    Meg-Lynn Land Company and Black River  
2 Coal.

3           Q.    Okay.

4           A.    And both -- what those two are,  
5 Meg-Lynn Land is associated with the A&G Coal  
6 Corporation operation. It is a lessee. And so  
7 when A&G was spun off, Meg-Lynn should have gone  
8 with it, and this is a correction of that.

9                   And Black River Coal is the same type  
10 setup with Justice Low Seam Mining. So when  
11 Justice Low Seam Mining was spun off, Black  
12 River Coal should have gone off at the same  
13 time.

14           Q.    Okay. So by 2016 those two entities  
15 had been spun off, as well?

16           A.    Correct.

17           Q.    Now, the gross receipts for Southern  
18 Coal Corporation and its subsidiaries are listed  
19 as [REDACTED]; is that right?

20           A.    Yes.

21           Q.    And how much of that was from Southern  
22 Coal Corporation -- I'm sorry, was from Nevada  
23 Holdings, Inc.?

24           A.    On the schedule, [REDACTED].

25           Q.    Okay. Now, Nevada Holdings, Inc.,



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1 is the same thing as Southern Coal Sales  
2 Corporation, right?

3 A. Yes.

4 Q. Okay. First of all, why did Southern  
5 Coal Sales Corporation change its name?

6 A. I wasn't involved with that directly,  
7 but Southern Coal Sales Corporation was in a  
8 dispute. I think the name of the other company  
9 was [REDACTED] And I think the name change was  
10 a first step in the event that the entity would  
11 ultimately file bankruptcy.

12 Q. Which entity?

13 A. Southern Coal Sales Corporation.

14 That, obviously, never happened, but I  
15 think -- I think that was the first step in case  
16 that -- that was a necessary move.

17 Q. Okay. Do you know why you'd want to  
18 change the name before filing bankruptcy?

19 A. I just -- I think because Southern  
20 Coal Corporation was not going to be involved,  
21 it was one where only the subsidiary was going  
22 to file. And to avoid any confusion with who  
23 was actually in bankruptcy, it made sense to  
24 change the name. But, again that was something  
25 that was proactive, but it never actually

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1 culminated.

2 Q. Now, we've already gone through  
3 and established that Battle Holdings, Inc., or  
4 Southern Coal Sales Corporation, made sales of  
5 [REDACTED] to Algoma in 2016. So how is  
6 it that there were [REDACTED] gross receipts or sales  
7 for Nevada Holdings, Inc., on the 2016 tax  
8 return?

9 A. In just referring back to Exhibit 506,  
10 the income statement for that year has a large  
11 negative general revenue adjustment, and I would  
12 assume somehow those two tie together, as we've  
13 discussed in 2015, but I can't say for sure.

14 Q. What's a negative revenue adjustment?

15 A. It's just some type of adjustment, and  
16 it's just the way our income statement works,  
17 but certain types of adjustments show up as  
18 either a positive or a negative in general  
19 revenue, if there's not, otherwise, a specific  
20 line item for it. Like, on these statements,  
21 there's line items for coal sales revenue,  
22 premiums and penalties, shipping royalty. And,  
23 basically, general revenue is just a catchall  
24 for anything that doesn't fit into one of those  
25 categories. As I mentioned earlier, it could be

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1 something like a bad debt expense or something  
2 like that.

3 Q. But as you sit here today, you don't  
4 know what the general revenue adjustment was  
5 that took you into negative territory?

6 A. I can't tell by looking at that  
7 exhibit.

8 Q. And by that exhibit, you mean Exhibit  
9 506?

10 A. Correct.

11 Q. Wouldn't the 2016 tax return combined  
12 trader business income and deductions statement  
13 include, under gross receipts or sales, all of  
14 the sales made by an entity regardless of  
15 whether there are any adjustments? It's  
16 gross receipts and sales, right?

17 A. Yeah. But as we saw on the 2015  
18 return, the way this schedule presents the  
19 income statement, it's the -- what's,  
20 ultimately, the -- it's what's described as  
21 total revenue on the income statement is what  
22 corresponds to I think it's gross revenue, I  
23 lost my spot here, but what corresponds to gross  
24 revenue on the tax return.

25 Q. So where it says gross receipts or

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1 sales on the tax return, it doesn't really mean  
2 all receipts and sales. It means all receipts  
3 and sales after adjusting for other things?

4 A. Yes. I mean, and when you compare --  
5 like, 2015, for example, when you compare that  
6 line item with the year-end income statement,  
7 it's what shows up at total revenue on the  
8 income statement.

9 Q. And in order to understand how you did  
10 the calculation of general revenue for 2016, we  
11 would have to look at the general ledger? What  
12 would we have to look at?

13 A. Yeah. That's what would show you what  
14 makes up that line item.

15 Q. Did any other entity besides Nevada  
16 Holdings, Inc., report the revenue generated  
17 from the sale of coal to Algoma?

18 A. I can't tell that from this document.

19 Q. Do you know who reported the revenue  
20 on sales to Algoma in 2016?

21 A. If it's not on this tax return,  
22 the only other place I think it could be is  
23 Bluestone Energy Sales Corporation, but I don't  
24 have that tax return in front of me, so I can't  
25 say for sure.

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1           Q.    What could I do to try to figure out  
2           the answer?  Where could I look?

3           A.    I think I would have to see what the  
4           general revenue adjustment is at the year-end  
5           for 2016 to make sure that's not otherwise  
6           offsetting any coal revenue.  It doesn't appear  
7           that it is, and then I think you would have to  
8           look at, probably, the Bluestone Energy Sales  
9           tax return to see if it's there.

10          Q.    [REDACTED] is a pretty big general  
11          revenue negative adjustment in 2016, right?

12          A.    Yes.

13          Q.    Do you recall what that was for?

14          A.    Not specifically.

15          Q.    But, again, that would be of -- that  
16          information would be available on the general  
17          ledger?

18          A.    Yeah.  It would be in the records as  
19          to what created that.

20          Q.    Okay.  Which records?

21          A.    The accounting records.

22          Q.    Okay.  Just because I need to be  
23          a little more specific, do you know which  
24          accounting records?

25          A.    I don't know exactly what it is.

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1 Like I said, general revenue is a catchall for  
2 anything that does not fit into one of those  
3 other categories.

4 Q. And the other categories are set forth  
5 below on this third page of Exhibit 506?

6 A. Yes. I think it was coal sales  
7 revenue, premiums and penalties, farm revenue,  
8 shipping royalty. If it's not one of those, it  
9 would, by default, fall into general revenue.

10 Q. Okay. If you could take a look at  
11 Exhibit 506, the third page, this is the  
12 consolidated income statement for 2016?

13 A. Yes.

14 Q. The third page has a bad debt expense  
15 of [REDACTED], do you see that?

16 A. Yeah.

17 Q. What was that?

18 A. I can't tell from this what that is.

19 Q. And you don't know otherwise?

20 A. I mean, it would be a write-off of a  
21 bad receivable, but I don't know who that would  
22 be just by looking -- or how many different  
23 receivables that is.

24 Q. If you could go back to Exhibit 511,  
25 please.

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1 A. Okay.

2 Q. Okay. On the last page where we've  
3 totaled up all the sales, for 2016 we came up  
4 with a total of [REDACTED], correct?

5 A. Yes.

6 Q. Okay. And when we were just looking  
7 at Exhibit 506, third page, bad debt expense,  
8 that's [REDACTED], right?

9 A. Yes.

10 Q. So according to Exhibit 506 Page 3,  
11 you had \$ [REDACTED] worth of bad debt expense  
12 on \$ [REDACTED] worth of sales?

13 A. That wouldn't have to be from the  
14 same year. I mean, you could be writing off  
15 something from a prior year.

16 Q. Okay.

17 A. So you can't specifically say it only  
18 relates to that.

19 Q. So if we want to find out -- how do I  
20 find out what that bad debt expense was for?

21 A. It would be in the general ledger.

22 (Ball Exhibit No. 518, a document  
23 Bates Numbered SE-ESAL-7308 through 7360, was  
24 marked.)

25 BY MR. BOLLIN:

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1           Q.    I've handed you Exhibit 518, which  
2           encompasses documents SE-ESAL-7308 through 7360.  
3           These are invoices received by Algoma from  
4           Southern Coal Sales Corporation relating to  
5           the coal purchased pursuant to the original  
6           agreement, the amending agreement and term  
7           sheet -- actually, not the term sheet, up  
8           through the amending agreement.

9                     First of all, do you recognize the  
10          invoices? Have you ever seen these before?

11          A.    I haven't gone through every single  
12          one of them, but, yeah, I mean, they generally  
13          appear to be our form of invoice that we use.

14          Q.    Okay. And then if you'll go to  
15          Page 7339 within this Exhibit 518, you'll see  
16          that the invoices starting April 29 of 2016 are  
17          from Bluestone Energy Sales Corporation. Do you  
18          see that?

19          A.    Yes.

20          Q.    Do you know why that change in form  
21          was made?

22          A.    I think it ties to the Carter Bank  
23          conversation we had earlier. I think we were  
24          trying to qualify these invoices and receivables  
25          for financing purposes under the Carter Bank



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1           Bluestone Energy Sales line of credit to, you  
2           know, basically, create access to cash for  
3           operations.

4           Q.     And that -- that didn't work out for  
5           you?

6           A.     I mean, it just wasn't quite what we  
7           had hoped.

8           Q.     The wire instructions actually sought  
9           payment to a Bluestone energy account, correct?

10          A.     On some of them, and on some of the  
11          Bluestone Energy Sales ones it's Southern Coal  
12          Sales.

13          Q.     Okay. In any case, the payments were  
14          always made to a Southern Coal Sales Corporation  
15          account number, right?

16          A.     Yes.

17          Q.     Did Bluestone Energy Sales Corporation  
18          assume the contract within -- within the  
19          company? Did it take over the contract?

20          A.     That was our intention, but I don't  
21          think that ever happened.

22                   I think it was a little different than  
23          the utility contracts where they were willing to  
24          start paying into the Bluestone energy sales  
25          bank account. In this instance, Algoma only

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1       paid the Southern Coal Sales bank account. So  
2       I don't think there was no -- I don't think we  
3       ever completed an internal assignment of the  
4       contract.

5               Q.     Okay. But after the money would be  
6       received from Algoma, it would, nonetheless, be  
7       transferred out almost immediately to Bluestone  
8       Energy Sales Corporation and other  
9       Justice-related entities, correct?

10              MR. ROBECK: Objection; form.

11              THE WITNESS: Yeah. As we  
12       discussed earlier, to pay back loans that had  
13       been previously made.

14       BY MR. BOLLIN:

15              Q.     And it was accomplished in such a way  
16       as to leave the account balance at [REDACTED] or [REDACTED]  
17       [REDACTED] every month?

18              A.     As the money came in, it -- it --  
19       almost all it have always went back out.

20              Q.     Who prepared the invoices that were  
21       sent to Algoma?

22              A.     Typically, either Summer Harrison or  
23       Janet Ransom would do that.

24              Q.     Do you know whose decision it would  
25       have been to change the invoices from Southern

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1 Coal Corporation -- Sales Corporation to  
2 Bluestone Energy Sales Corporation?

3 A. I think Jay Justice would have  
4 instructed Summer to have that done.

5 (Ball Exhibit No. 519, the 2017 return  
6 for Southern Coal Corporation, was marked.)

7 BY MR. BOLLIN:

8 Q. Is Exhibit 519 the 2017 return for  
9 Southern Coal Corporation?

10 A. Yes.

11 Q. If you could turn to Page 22921, going  
12 back to that consolidated report we've been  
13 looking at for the other tax returns, --

14 A. Okay.

15 Q. -- this one's a little hard to read,  
16 but is there any gross receipts reported for  
17 Nevada Holdings, Inc.?

18 A. No.

19 Q. Because I can't read that page too  
20 well, let me go back to the first page of the  
21 actual return, which is Page 22904.

22 A. Okay.

23 Q. The combined revenue for Southern Coal  
24 and its subsidiaries for 2017 was [REDACTED]; is  
25 that right?

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1 A. Yes.

2 Q. Okay. Is this during the time  
3 period that Southern Coal Corporation and its  
4 subsidiaries became inactive?

5 A. Yeah. None of these companies were  
6 operating in 2017.

7 Q. I'm going to jump around a little bit  
8 between the tax returns for a minute here, if  
9 you could put them in front of you. I'm going  
10 to start with 2014.

11 If you go to the -- it's Page 22560,  
12 please, --

13 A. Okay.

14 Q. -- what was the rent expense for  
15 Southern Coal Sales -- I'm sorry, Southern  
16 Coal Corporation in 2016 -- I'm sorry, 2014?

17 A. Can you point me to a line item on  
18 that? I'm not seeing it.

19 Q. Sure. I think it's 11. I don't have  
20 it in front of me.

21 A. Zero.

22 MR. ROBECK: This is for Southern Coal  
23 Corporation, right?

24 MR. BOLLIN: Yeah. Southern Coal  
25 Corporation. The 2014 return for Southern Coal

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1 Corporation.

2 BY MR. BOLLIN:

3 Q. And this includes all the subsidiaries  
4 including Southern Coal Sales Corporation,  
5 correct?

6 A. Yes.

7 Q. So neither Southern Coal Corporation  
8 or its subsidiaries paid any rent in 2014?

9 MS. BYROADE: Objection.

10 THE WITNESS: Not -- I mean, not as  
11 it's categorized on a tax return.

12 BY MR. BOLLIN:

13 Q. Is there another kind of rent that  
14 they paid?

15 A. Yeah. I mean, like, coal lease, rent  
16 and/or royalties. You know, when you're not  
17 mining, you still have to pay a minimum lease  
18 amount. I mean, in coal leases, they don't  
19 always call it rent. I don't know where that  
20 gets picked up on a tax return, but as it gets  
21 characterized for a tax return, Line 11 has  
22 zero.

23 Q. Okay. If you could go to Page 22598  
24 of that same return, --

25 A. Okay.

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1 Q. -- Line 11, that indicates that none  
2 of the entities pays rent, right?

3 A. Yeah. As it's categorized on a tax  
4 return, that line is [REDACTED].

5 Q. Okay. And Southern Coal Sales  
6 Corporation doesn't own any property or any land  
7 or buildings, right?

8 A. No.

9 Q. Okay. Southern Coal wasn't paying for  
10 office space or for any of its employees to use  
11 office space, correct?

12 A. I can't say that for sure. I mean,  
13 there is -- from time to time, there have been  
14 intercompany charges. In this specific time  
15 period, I can't say whether or not, but  
16 companies have made charges intercompany for  
17 what some people refer to as management fees  
18 and things like that.

19 Q. How would we know about those  
20 management fees that you're describing?

21 A. It would show up as an intercompany  
22 charge.

23 Q. Where?

24 A. Same place we've been talking  
25 about all day. It would be in the intercompany

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1 payable or receivable on the balance sheet, and  
2 then for the detail that you've been asking  
3 about that would be shown on the intercompany  
4 summary that would be generated from the general  
5 ledger.

6 Q. But in 2014, at least, you didn't  
7 report any rents paid on behalf of any Southern  
8 Coal Corporation entity, correct?

9 A. I think, for the third time, Line 11  
10 on the tax return says [REDACTED]

11 Q. Okay. Well, you were qualifying  
12 it a second ago, so I just wanted to make sure.

13 A. I have said, unequivocally, every  
14 time, that Line 11 says [REDACTED] on the tax return.

15 Q. You know of no rents, you think there  
16 may have been some charges, you don't know,  
17 those would be in the ledger?

18 A. I don't know if there were any charges  
19 or not.

20 Q. Okay. The 2015 to 2016 tax returns  
21 also showed [REDACTED] rent expense for Southern Coal  
22 and its subs?

23 A. I don't know.

24 Q. We can go through it, if you'd like.

25 A. Yeah. What exhibits are those?

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1 Q. I'm sorry?

2 A. What exhibits are those?

3 Q. Sure. The 2015 tax return is --

4 MR. ROBECK: 516.

5 BY MR. BOLLIN:

6 Q. -- 516. Take a look at Line 11, if  
7 you will.

8 A. Yeah. Line 11 says [REDACTED]

9 Q. Okay. The 2016 tax return is Exhibit  
10 517.

11 A. Line 11 says [REDACTED].

12 Q. Okay.

13 So the Southern Coal Corporation and  
14 its subs weren't paying for office space in 2014  
15 through 2016, right?

16 MR. ROBECK: Objection.

17 THE WITNESS: Yeah. Can you ask that  
18 again?

19 BY MR. BOLLIN:

20 Q. In 2014 through 2016, Southern Coal  
21 Corporation and its subsidiaries were not  
22 paying for rent for office space, correct?

23 A. I mean, I think that's different than  
24 what you asked earlier. I can't tell from that  
25 if Southern Coal Corporation was -- because



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1 Southern Coal Corporation, I think, did have  
2 some assets. You've asked me about Southern  
3 Coal Sales not having assets, which I do agree  
4 with you would imply, if they had office space,  
5 they would have to rent it. But I can't say  
6 from looking at the face of that if Southern  
7 Coal -- because each mine has mine offices,  
8 I mean, I just can't say by looking at that  
9 document whether Southern Coal, or any of its  
10 subsidiaries as you asked the question, doesn't  
11 have any of its own offices.

12 Q. Okay. My question really was just  
13 rents. Did Southern Coal or any of its  
14 subsidiaries pay rent for offices between  
15 2014 and 2016?

16 A. No. And, like I said, I -- I think  
17 it's possible, though, at some of the mine  
18 operations you have mine offices. And if  
19 Southern Coal owned those, which is possible,  
20 it wouldn't show up in rents. That's the only  
21 point I was trying to make.

22 Q. Okay. That's fine.

23 And where would you look to find out  
24 if Southern Coal Corporation owned offices at  
25 mine operations?

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1           A.    It would show up as a fixed asset on  
2           their balance sheet.

3           Q.    And the balance sheets that we've  
4           seen for Southern Coal Sales Corporation don't  
5           provide that level of detail. Do the balance  
6           sheets for Southern Coal Corporation show that  
7           level of detail identifying what the fixed  
8           assets are?

9           A.    I mean, it would show whether or not  
10          they had fixed assets.

11          Q.    Okay.

12          A.    And if you wanted to see what those  
13          fixed assets are, you would have to look at the  
14          general ledger.

15          Q.    Can you look at the 2017 tax return,  
16          which is Exhibit 519? Now, on this one, it  
17          shows Southern Coal Corporation and its  
18          subsidiaries paid rents of \$[REDACTED].

19          Did I get that right?

20          A.    Yes.

21          Q.    And do you know what that rent expense  
22          is for?

23          A.    No.

24          Q.    If you look on the schedule on  
25          Page 22921, all of that amount is allocated to

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1 an entity identified as subsidiary Southern Coal  
2 Corporation.

3 MR. ROBECK: 22921?

4 MR. BOLLIN: Yeah.

5 BY MR. BOLLIN:

6 Q. Do you think that means to allocate  
7 the rent to Southern Coal Corporation?

8 A. I don't know what that means.

9 Q. All right. No rent is allocated to  
10 Nevada Holdings, Inc., right?

11 A. Correct.

12 Q. Did Southern Coal Corporation have any  
13 revenue in 2017?

14 A. I think you asked this earlier, but

15 [REDACTED].

16 Q. Okay. So the rent attributed to  
17 Southern Coal Corporation in 2017 exceeded its  
18 revenue?

19 A. The rent that is claimed on  
20 Line 11 exceeds its revenue by, I guess,  
21 roughly, [REDACTED]. I don't agree with your  
22 characterization of it, though. Because I  
23 think if it was attributed to Southern Coal  
24 Corporation, it would have to show up on both  
25 sides of the equation.

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1 Q. What do you mean by that?

2 A. Maybe I misunderstood what you're  
3 saying, but I thought you said it was rent  
4 attributed to Southern Coal Corporation.

5 Q. It appears to be in that form we were  
6 looking at on Page 22921.

7 A. And you mean as an expense?

8 Q. Yeah.

9 A. Oh, okay. I misunderstood what  
10 you were saying. I thought you said paid to  
11 Southern Coal Corporation.

12 Q. No, paid by.

13 It does raise the question, though, of  
14 who they paid it to. Do you know who they paid  
15 the rent to?

16 A. No. No. I mean, I don't think it's  
17 uncommon for -- if companies don't have revenue,  
18 I think companies struggle to pay rent every  
19 day. I think it's where the saying comes from.

20 Q. Well, this is the first year they  
21 appear to have paid rent, and yet they didn't  
22 have revenue.

23 A. Correct.

24 Q. Okay. If you could take a look at the  
25 2013 return, Exhibit 514, first page of the

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1 return itself, which is 22309, do you see it?

2 A. Yes.

3 Q. Okay. It identifies compensation of  
4 officers in Southern Coal Corporation at

5 [REDACTED]. Did I read that correctly?

6 A. What line item?

7 Q. Seven.

8 A. Yes.

9 Q. And if you go ahead to Page 22322 of  
10 the same exhibit, this is the compensation of  
11 officers form?

12 A. Yes.

13 Q. Okay. And this identifies  
14 compensation for yourself, Jim Justice, III,  
15 and James T. Miller, correct?

16 A. Yes.

17 Q. Was that your total compensation for  
18 2013, or did you receive compensation from other  
19 entities, as well?

20 A. That would have been my total.

21 Q. Was that James Justice, III's,  
22 total compensation in 2013, or did he receive  
23 compensation from others?

24 A. Possibly.

25 Q. Do you know if that was James

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1 T. Miller's total compensation in 2013?

2 A. That would not have been James  
3 T. Miller's total compensation.

4 Q. Do you know where else he received  
5 compensation from in 2013?

6 A. Greenbrier Hotel Corporation.

7 Q. And is it possible that James C.  
8 Justice, III, also received compensation from  
9 another entity that year?

10 A. Yes.

11 Q. Who determined your wages or  
12 compensation in 2013?

13 A. James C. Justice, III, and, I guess,  
14 technically, James C. Justice, II, but I think  
15 that it would have predominantly been James C.  
16 Justice, III.

17 Q. Okay. I want to look at the same line  
18 on the 2014 return, which I believe is Exhibit  
19 515.

20 And starting on the first page the  
21 compensation of officers, Line 7, that line's  
22 [REDACTED] on the 2014 return, and that means [REDACTED].  
23 The officers weren't compensated at all in 2014,  
24 is that accurate?

25 A. Line 7 says [REDACTED] yes.

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1 Q. And do you believe that to be true the  
2 officers were compensated [REDACTED] by Southern Coal  
3 Corporation and its subsidiaries in 2014?

4 A. Yes. I have no reason to think that  
5 this isn't accurate.

6 Q. You were still an officer in 2014 for  
7 Southern Coal Sales Corporation, right?

8 A. Yes.

9 Q. Where did you receive your  
10 compensation that year in 2014?

11 A. I believe Justice Management Services.

12 Q. Have we talked about them yet today?

13 A. It no longer exists.

14 Q. Okay. It sounded like a new one.

15 A. Yeah. No. It no longer exists.

16 Q. Who owned Justice Management Services?

17 A. I don't recall its ownership.

18 Q. Was its ultimate ownership the Justice  
19 Family?

20 A. Yes.

21 Q. Were you paid by that entity in any  
22 other years?

23 A. In 2015, as well.

24 Q. Okay. Do you know who paid the  
25 compensation of the other officers of Southern

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1 Coal Corporation and its subsidiaries in 2014?

2 A. I think it would have been Justice  
3 Management Services, as well.

4 Q. That's your expectation or -- I don't  
5 want you to guess.

6 A. I mean, typically, they would be paid  
7 by the same people I would be paid by.

8 Q. But in 20 --

9 A. But that is a guess.

10 Q. And, I mean, in 2013, they were paid  
11 at least a part of their compensation by the  
12 same entity, Southern Coal Corporation, right?

13 A. Right.

14 Q. But it's quite possible, if not  
15 probable, they received the bulk of their  
16 compensation from other Justice entities in  
17 2013?

18 MR. ROBECK: Objection; form

19 THE WITNESS: I know that Terry Miller  
20 did. I don't know on Jay Justice.

21 BY MR. BOLLIN:

22 Q. Okay. Do you know if Jay Justice  
23 received distributions or dividends in 2015?

24 A. No dividends.

25 Q. Is a distribution different than a



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1 dividend, in your mind?

2 A. Not in my mind.

3 Q. Okay.

4 A. Well, it typically de -- to me it  
5 denotes noncash.

6 Q. Mm-hmm.

7 A. But they're, effectively, the same  
8 thing to me.

9 Q. Do you know if Jay Justice has  
10 received dividends or distributions  
11 in 2013, 2014, 2015 or 2016?

12 A. He would not have.

13 Q. Okay. Do you know if he did in 2017?

14 A. He wouldn't have then either.

15 Q. How about Jim Justice for the same  
16 years?

17 A. No dividends or distributions.

18 Q. You said that you were paid -- what's  
19 the management entity?

20 A. Justice Management Services.

21 Q. And they paid you in 2014 and 2015?

22 A. The first three months of 2015.

23 Q. Okay.

24 A. That -- when I moved to Greenbrier  
25 Hotel Corporation after the death of the chief

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1 operating officer, --

2 Q. Sure.

3 A. -- I went on their payroll.

4 Q. Okay. That's when you went to work  
5 for Greenbrier, was in 2015?

6 A. Yeah. April of 2015.

7 Q. Did Southern Coal Corporation and its  
8 subsidiaries report any compensation of its  
9 officers in 2015?

10 A. No.

11 Q. Did Southern Coal Corporation and its  
12 subsidiaries report compensation of any officers  
13 in 2017 -- I'm sorry, 2016?

14 A. No.

15 Q. Did Southern Coal Corporation and its  
16 subsidiaries report any officer compensation in  
17 2017?

18 A. No.

19 Q. Aside from yourself, do you know how  
20 any of the officers of Southern Coal Corporation  
21 and its subsidiaries were compensated in the  
22 years 2014 through 2017?

23 A. I know that Terry Miller received the  
24 majority of his salary from Greenbrier Hotel  
25 Corporation, and he received a smaller amount

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1 from Southern Coal and then Justice Management  
2 Services.

3 Q. Okay.

4 A. I do not know how Jay Justice and Jim  
5 Justice were compensated.

6 Q. Turning back to Exhibit 514, which  
7 is the 2013 return -- I believe it's an amended  
8 return, correct?

9 A. It's checked as an amended return.

10 Q. Okay. And you've got the subsidiary  
11 -- qualified subsidiary elections at the  
12 beginning of this document?

13 A. Yes.

14 Q. Okay. Now, I was looking at  
15 those, and they're prepared for Southern Coal  
16 Corporation, and then they have the name of the  
17 various subsidiaries. First of all, you  
18 prepared these, didn't you?

19 A. I did not, no.

20 Q. Oh, okay.

21 You were identified as the officer or  
22 legal representative from the IRS may call for  
23 more information. Did they tell you that?

24 A. I don't recall from five years ago,  
25 so I --

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1 Q. Sure.

2 A. -- I'm sure Brian would have alerted  
3 me to that, but I don't recall a specific  
4 conversation.

5 Q. On these forms there's a provision  
6 for name of common parent, and it would be  
7 common between Southern Coal Corporation and the  
8 subsidiary on each form, and on each form it's  
9 identified as James C. Justice Companies, Inc.  
10 Do you see that?

11 A. Yes.

12 Q. So I think earlier we identified them  
13 as -- I'm sorry, I'm looking at my chart, and  
14 I'm just having a hard time putting it together.

15 James C. Justice companies Inc., is  
16 that the parent of Bluestone Resources?

17 A. No.

18 MR. ROBECK: We're also talking about  
19 a different time period now.

20 MR. BOLLIN: Okay.

21 MR. ROBECK: You're looking at a  
22 2013 tax return, two years prior to the date we  
23 agreed upon and all the other questions about  
24 the corporate structure was focused on 2016, and  
25 I think maybe a few questions about 2015 and

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1 2017.

2 BY MR. BOLLIN:

3 Q. So how was James C. Justice Companies  
4 Inc., related to Bluestone Resources, Inc.?

5 A. It has common ownership in that the  
6 Justice family owns James C. Justice Companies  
7 Inc. And for these entities that you see these  
8 forms, prior to 2013 they were owned by James  
9 C. Justice Companies, Inc. In 2013, in a  
10 similar spinoff to what we were discussing  
11 earlier, James C. Justice Companies, Inc., spun  
12 those off to Southern Coal Corporation. And  
13 that was to eliminate any coal mining within the  
14 James C. Justice Companies Inc., structure.

15 Certain banks that are willing to  
16 finance agriculture do not want to finance any  
17 coal exposure whatsoever, so we removed all  
18 of the coal companies from James C. Justice  
19 Companies, Inc.

20 Q. When we were going through the bank  
21 statements earlier, you saw a number of deposits  
22 from Justice Family Farms to Southern Coal  
23 Corporation -- Southern Coal Sales Corporation's  
24 accounts. Why did those transfers occur?

25 A. It would just be another example of

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1           what we talked about, intercompany loans between  
2           companies, or repayment of intercompany loans.

3           Q.    If you could take a look at the  
4           2014 return in Exhibit 515 back at the combined  
5           trader business income and deduction statement,  
6           which is on Page 22598, --

7           A.    Okay.

8           Q.    -- I noticed on this page there's a  
9           advertising expense reported of [REDACTED], and  
10          -- I'm sorry, [REDACTED] of those dollars are for  
11          Southern Coal Sales Corporation. Do you know  
12          what that advertising was for?

13          A.    I can't tell from this what that's  
14          for.

15          Q.    Do you know what kind of expenses go  
16          into this line item, advertising?

17          A.    I mean, I -- I think exactly  
18          what would you expect to go into it, I mean,  
19          especially given that it's on a tax return that,  
20          you know, has very specific rules as far as what  
21          can be deducted for marketing and advertising.

22          Q.    What kind of marketing and advertising  
23          does Southern Coal Corporation do?

24          A.    It will sponsor various events. Back  
25          then it would -- I mean, it could be anything,

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1 but it would sponsor little league signs at  
2 local little leagues, it sponsored youth golf  
3 events. I don't think any of those rise to the  
4 number that's on there. I don't know what makes  
5 up that number, but that's, typically, the type  
6 of advertising they did.

7 MR. BOLLIN: Let's take a five-minute  
8 break.

9 MR. ROBECK: Okay.

10 (Recess taken.)

11 BY MR. BOLLIN:

12 Q. I'm going ask you to take a look at  
13 the 2015 tax return, Exhibit 516.

14 A. Okay.

15 Q. Turn to Page 22767, please.

16 A. Okay.

17 Q. In 2015, what were the combined  
18 costs of goods sold for Southern Coal and its  
19 subsidiaries?

20 MR. ROBECK: What page are we looking  
21 at? I'm sorry.

22 MR. BOLLIN: 22767.

23 THE WITNESS: [REDACTED]

24 BY MR. BOLLIN:

25 Q. And how much of that came from

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1 Southern Coal Sales Corporation?

2 A. [REDACTED]

3 Q. Okay. If you could turn to Page  
4 22771, there's a breakdown of those other costs  
5 -- I'm sorry. I've got the wrong page. It's  
6 22767, so it's the same page -- nope. I'm  
7 sorry. I had it right the first time. I'm  
8 looking at other expenses. If you go to Page  
9 22771, it's the breakdown of other expenses as  
10 set forth on Page 22767, and it shows --

11 MR. ROBECK: Under costs. That's  
12 technically not under expenses. It's under  
13 costs.

14 MR. BOLLIN: Okay.

15 BY MR. BOLLIN:

16 Q. Costs of goods sold. All right.  
17 Well, in any case, on Page 22771,  
18 there's a schedule of other costs, and under  
19 Southern Coal Sales Corporation it's got an  
20 other expenses category. And it allocates  
21 [REDACTED] to Southern Coal Sales Corporation  
22 as an other expense.

23 Do you know or do you know where we  
24 could find the basis for those other expenses?

25 A. I can't tell from this what that is.



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1 I mean, that, generally, is a catchall for  
2 something that doesn't specifically fit in  
3 one of those other categories.

4 Q. Yeah. Do you know what's included in  
5 other expense?

6 A. Like I said, my understanding is  
7 it's a catchall for something that doesn't  
8 specifically meet one of these other categories  
9 on this page, and I can't tell from looking at  
10 this.

11 Yeah, I can't tell looking at the  
12 income statement. I know the general expense on  
13 the income statement is [REDACTED]. Right above  
14 it is freight expense export, and so it could  
15 possibly be a combination of freight expense in  
16 that. But I just can't tell by looking at it.

17 Q. Okay. Do you know what documents I'd  
18 have to review in order to determine what the  
19 other expense was as identified for Southern  
20 Coal Sales Corporation on Page 22771?

21 A. I guess you would just have to see  
22 what -- what the tax preparer combined off of  
23 the year-end books to get into other expenses.  
24 I can't tell from the face of it.

25 Q. Okay. Turning to the 2016 tax return,

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1 Exhibit 517, I want to look at the costs of  
2 goods sold which is set forth on Page 22995.

3 Are you there?

4 A. Yeah.

5 Q. Okay. First of all, this is the  
6 -- this is 2016, this is the year that Southern  
7 Coal Corporation and subsidiaries reported [REDACTED]  
8 gross receipts or sales from Southern Coal  
9 Corporation or Nevada Holdings, Inc., right?

10 A. Correct.

11 Q. Similarly, there is [REDACTED]  
12 allocated to cost of goods sold for Nevada  
13 Holdings, Inc., or Southern Coal Corporation?

14 A. Correct.

15 Q. And this is the year that Southern  
16 Coal entered into and supplied coal -- entered  
17 into agreements and supplied coal to Algoma,  
18 correct?

19 A. Correct.

20 Q. And I think we established earlier you  
21 don't know why the gross receipts or sales or  
22 the costs of goods sold aren't identified in the  
23 tax return in 2016?

24 A. I believe they're on the Bluestone  
25 Energy Sales tax return, but without having that

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1 in front of me I can't say that definitively.

2 Q. Okay. Thank you.

3 If you could turn two pages to Page  
4 22998, this is other deductions. Are you on  
5 that page?

6 A. Yes.

7 Q. Okay. There's an entry for freight  
8 coal under Nevada Holdings, Inc. It says,  
9 expenses of [REDACTED]. Do you see that?

10 A. Yes.

11 Q. Do you know how Nevada Holdings, Inc.,  
12 would have expenses for freight coal in a year  
13 when it reported [REDACTED] gross receipts or sales or  
14 costs of goods sold?

15 A. No.

16 Q. I have the same question with regard  
17 to loading costs of [REDACTED]. Do you know  
18 why that's recorded for Nevada Holdings, Inc.?

19 A. No.

20 Q. Is it possible that this cost is  
21 related to one of the other Southern Coal  
22 Corporation entities?

23 A. It's possible. I -- again, I think  
24 the revenue is -- is, more than likely, on the  
25 Bluestone Energy Sales tax return, and I think

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1           this, probably, is an error and it should have  
2           -- if the revenue went over to Bluestone Energy  
3           Sales, the -- the cost of goods should have, as  
4           well. But I can't say that for sure, but none  
5           of these other entities were operating, so I  
6           don't think it would have been any of them.

7           Q.     Okay. Understood.

8                     Next I want to look at the inventory  
9           that was reported on this same tax return. If  
10          you could go to Page 22971, there's a Schedule L  
11          there called Balance Sheets Per Books.

12          A.     Okay.

13          Q.     Do you see that? Okay. There's a  
14          Line 3 called inventories.

15                 MR. ROBECK: Did you say Schedule L?

16                 MR. BOLLIN: Yeah.

17                 MR. ROBECK: On Page --

18                 MR. BOLLIN: 22971.

19                 MR. ROBECK: -- 22971 of Exhibit 517?

20                 MR. BOLLIN: That's all right.

21                 MR. ROBECK: Oh, I see. I was looking  
22          at Schedule K at the top.

23                 MR. BOLLIN: Oh, sure. Okay.

24          BY MR. BOLLIN:

25          Q.     So the third line, it's called

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1 inventories, it says, end of tax year,  
2 Southern Coal Corporation and subsidiaries had  
3 inventories of [REDACTED].

4 Do you see that?

5 A. Yes.

6 Q. What are those inventories?

7 A. Typically, inventories are things like  
8 fuel and, like, the blasting supplies, powders  
9 and things like that and coal inventory.

10 There's not enough detail from the tax return  
11 for me to tell you exactly what those are.

12 Q. Okay. If you could turn to Page  
13 23016, same document, do you see it?

14 A. Yes.

15 Q. Okay. Now, this is called Combined  
16 Ending Balance Sheet, and, again, Line 3 is  
17 entitled, Inventories. Do you see that?

18 A. Yes.

19 Q. Actually, it might be Line 4, my  
20 apologies. The combined amounts is [REDACTED],  
21 just as it was on the prior page, right?

22 A. Yes.

23 Q. And [REDACTED] worth of that is  
24 attributed to Nevada Holdings, Inc. Do you see  
25 that?

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1 A. Yes.

2 Q. I'm having a hard time understanding  
3 what Nevada Holdings, Inc.'s, inventories would  
4 have been. It didn't own coal, right?

5 A. Not -- I mean, not in the sense  
6 of coal reserves, and it doesn't mine coal.  
7 It owns coal that it buys and resells.

8 Q. So do you know what this inventory of  
9 [REDACTED] for Nevada Holding Company -- I'm  
10 sorry, Nevada Holdings, Inc., was in 2016?

11 A. I can't tell from this what that is.

12 Q. Okay. Do you know where we could look  
13 to figure that out?

14 A. General ledger on the -- I don't  
15 recall what the balance sheet said for that same  
16 year.

17 Yeah, see, I don't know, because  
18 there's no inventory on the balance sheet.

19 Q. That was going to be my next question.

20 A. So I -- I don't know -- I don't know  
21 what the -- I'm sorry. I'm looking at 20 -- the  
22 inventory question was 2015 or 2016?

23 Q. 2016.

24 A. 2016. All right. And I've laid that  
25 out, so we're good. So I'm looking at the 2016

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1 balance sheet and it shows no inventory. So I'm  
2 not sure what that discrepancy would be, but  
3 that's probably one that we would have to look  
4 at whatever information the tax preparer was  
5 relying on.

6 Q. In the 2017 tax return, the  
7 [REDACTED] inventory appears again on the  
8 balance sheet, which is that Page 22927.

9 MR. ROBECK: Can you repeat the  
10 question, please?

11 (Referred-to testimony read back.)

12 BY MR. BOLLIN:

13 Q. I'm having a hard time reading this  
14 page. Is yours better than mine?

15 MR. ROBECK: Yeah. I'm having a hard  
16 time reading it, too. Do you know what line  
17 you're talking about?

18 MR. BOLLIN: It's the fourth line  
19 down, same as all the others. You can kind of  
20 make it out. It says inventories.

21 MR. ROBECK: Oh, it's Number 3?

22 MR. BOLLIN: Yeah. It is.

23 MR. ROBECK: Okay.

24 BY MR. BOLLIN:

25 Q. And then under Nevada Holdings Inc.,

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1 it says [REDACTED].

2 I can make it out on mine. Can you  
3 make it out on yours?

4 A. I think that's right.

5 Q. That's the same number we just saw on  
6 the 2016 return.

7 A. I can't see the middle three numbers,  
8 but I --

9 Q. Yeah. I'll tell you what, I'll give  
10 you this one to look at next to it. It will  
11 help you.

12 MS. SCHULTZ: It's the same thing  
13 printed but in portrait versus landscape. It's  
14 easier to read than that one.

15 MR. ROBECK: Okay.

16 BY MR. BOLLIN:

17 Q. All right. So the inventory carried  
18 over to the 2017 initial balance is consistent  
19 with the 2016 balance statement, right?

20 A. Correct, yes.

21 MS. SCHULTZ: Should we attach these  
22 two together for the record maybe?

23 MR. BOLLIN: Sure. Is that one that  
24 can be attached?

25 MR. ROBECK: Well, why don't you just



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1 read the Bates Number. We can look it up.

2 MR. BOLLIN: Yeah. Well, same Bates  
3 Number, just a different copy.

4 MR. ROBECK: Okay. So it's Bates  
5 Number -- 022903 is the beginning Bates Number.

6 MS. SCHULTZ: Right. Through 22949.

7 MR. BOLLIN: Yeah. It's just a  
8 legible copy. That's all.

9 Tell you what, let's go ahead and mark  
10 it whatever that is, A, so that we have a  
11 legible copy on the record.

12 What's that one?

13 THE WITNESS: 519.

14 MR. BOLLIN: Okay. So this will be  
15 519A.

16 (Ball Exhibit No. 519A, the 2017  
17 return for Southern Coal Corporation printed in  
18 portrait format, was marked.)

19 BY MR. BOLLIN:

20 Q. Okay. So the number here is -- the  
21 amount of inventory is [REDACTED] is that  
22 right?

23 A. Can you give me the page number again?

24 Q. Yeah.

25 A. I was flipping through this.

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1 Q. No worries. It's 22927, --

2 A. Okay.

3 Q. -- or is it six? Lost track. No.  
4 It's seven. Third line down.

5 A. Yes. For Nevada Holdings,  
6 specifically, it's [REDACTED].

7 Q. Okay. And the combined total is?

8 A. [REDACTED].

9 Q. All right. If you could turn to  
10 Page 22909, again, this is in the 2017 return --

11 A. Okay.

12 Q. -- and, again, we see that number,  
13 [REDACTED] as the inventory at the beginning  
14 of the year, correct?

15 A. Yes.

16 Q. Okay. And, finally, if you could go  
17 to 22933, this is probably one of those you need  
18 to read the clearer copy on -- do you have a  
19 copy you can read?

20 A. Yes.

21 Q. Okay. You're doing better than me.  
22 What are the other costs that Nevada  
23 Holdings reports for 2017?

24 A. [REDACTED].

25 Q. What are those other costs, do you

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1 know?

2 A. I can't tell from this.

3 Q. Where would you look in order to try  
4 to determine what the [REDACTED] of other costs  
5 were?

6 A. The year-end income statement. And if  
7 I couldn't tell from there, then the general  
8 ledger.

9 Q. Pardon me a moment. I failed to put  
10 the document number on it.

11 If you'll turn in the same document,  
12 the 2017 return, if could you turn to Page 22941  
13 to page called Statement 11, do you see that?

14 A. Yes.

15 Q. All right. There there's a -- about  
16 five, six lines down, there's an inventory  
17 adjustment for [REDACTED], do you see that?

18 A. Yes.

19 Q. Do you know what that represents?

20 A. Again, that would be removing  
21 inventory from the books.

22 Q. But it's an adjustment. Do you know  
23 why it's being adjusted?

24 A. Typically, when you have an  
25 adjustment like that, it's for lack of

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1           substantiation. Typically, these weren't  
2           -- these weren't audited in 2017, the books  
3           weren't audited in 2017, but, I mean, that's --  
4           normally when you end up with an adjustment  
5           is if you can't meet the satisfaction of the  
6           auditor. In this instance, where there was no  
7           auditor, I don't know why it was treated as an  
8           adjustment.

9           Q. Again, Southern Coal Sales  
10          Corporation, or Nevada Holdings, I mean, they're  
11          the same thing, right, --

12          A. Right.

13          Q. -- they weren't doing business in  
14          2017, were they?

15          A. No.

16          Q. If you could turn in the 2017 tax  
17          return to Page 22921, first of all, Nevada  
18          Holdings, Inc., reports [REDACTED] for costs of  
19          goods sold, right?

20          A. Yes.

21          Q. Do you have any idea what that could  
22          be?

23          A. I don't. I thought I saw an  
24          explanation for that earlier, but I may be  
25          combining documents at this point. But I -- I

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1 don't know what the [REDACTED] is.

2 Q. Okay. On that same page, 22921 of  
3 the 2017 return, there's a line there that  
4 says other deductions, and there is an entry for  
5 Nevada Holdings, Inc., of [REDACTED]. Do you see  
6 that?

7 A. Yes.

8 Q. Do you have any idea what those other  
9 deductions would be for?

10 A. I can't tell from this.

11 Q. Now, again, Nevada Holdings wasn't  
12 operating in 2017, right?

13 A. No.

14 Q. And it had no revenue in 2017?

15 A. Not that I'm aware of.

16 Q. And it reported no revenue in 2016?

17 A. Correct.

18 Q. Do you know if these deductions belong  
19 to a different entity?

20 A. I mean, just because it was idle,  
21 I mean, doesn't mean it doesn't still have  
22 obligations, and so, I mean, you have things  
23 like this litigation and things like that. I  
24 just can't tell from this, but I -- I'm -- I  
25 can't say that this belongs to someone else.

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1 Q. Fair enough.

2 Not with regard to this document  
3 anymore, do you know what bank account, if any,  
4 Southern Coal Sales Corporation used to pay its  
5 operating expenses that were reported to the  
6 government in its 2016 and 2017 returns?

7 A. 2016, the first half of the year  
8 the obligations would have been paid out of  
9 the Wells Fargo account. The second half of the  
10 year they would have been paid out of the Chase  
11 account.

12 First half of 2017, they would have  
13 been paid out of the Chase account. Second half  
14 of 2017, I'm not sure.

15 Q. Okay. So if we're looking to identify  
16 the operating expenses for Southern Coal Sales  
17 Corporation in 2016 and 2017, we can look at the  
18 bank statements that we've already reviewed here  
19 today from Chase and from -- what was the other  
20 one?

21 A. Wells Fargo.

22 Q. Wells Fargo.

23 A. For payment of those expenses. I  
24 think they would have been paid out of those  
25 accounts.

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1           Q.    Did anyone make any payments on behalf  
2           of Southern Coal Sales Corporation?

3           A.    That wouldn't be typical.  I mean, it  
4           is possible.  As we sit here, and without going  
5           through those statements line by line, I would  
6           expect someone to loan Southern Coal Sales the  
7           money and then let them make the payment, but it  
8           has happened before.

9           Q.    Okay.  And now that I asked the  
10          question, I hadn't thought of this when I  
11          asked the first one, but now that I've asked the  
12          question I do recall an instance where Bluestone  
13          Energy made payments to the railroad in order to  
14          deliver railcars.  Are you familiar with that  
15          instance?

16          A.    I'm aware that happened, yes.

17          Q.    Okay.  But it wasn't regular, but it  
18          did happen on occasion?

19          A.    Yes.

20               MR. BOLLIN:  Okay.  If you folks don't  
21          mind, I'm going to hand it over to Laura to ask  
22          some questions while I try to make things more  
23          efficient.

24               MS. BYROADE:  Sure.

25               ///

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1 EXAMINATION

2 BY MS. SCHULTZ:

3 Q. Hi, Mr. Ball, for the record, we've  
4 met earlier today, but I'm Laura Schultz. I'm  
5 one of the other attorneys representing Algoma  
6 in this case.

7 I wanted to speak to you for a few  
8 minutes about sampling.

9 A. Okay.

10 Q. I believe you testified earlier  
11 this morning that you spoke to Mr. Sarver and  
12 Mr. Lambert regarding sampling; is that right?

13 A. I spoke to Mr. Sarver. I read  
14 Mr. Lambert's deposition.

15 Q. Okay. Fair enough.

16 Were there any other documents that  
17 you reviewed in preparation today with respect  
18 to sampling?

19 A. I also read some of Tim Fugit's  
20 deposition. I read some of Steve Sarver's  
21 deposition. I think that's it as it relates to  
22 sampling.

23 Q. Okay. Does Southern Coal Sales have  
24 any policies and procedures relating to sampling  
25 the coal it sells?



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1           A.    No formal policies.  It's, typically,  
2           dictated by each contract that we enter into,  
3           and we follow whatever that particular agreement  
4           requires.

5           Q.    And so would it be the operator of  
6           the particular mine that the coal is coming from  
7           that would be in charge of sampling, then?

8           MR. ROBECK:  Objection; form.

9           THE WITNESS:  Usually the sampling is  
10          either done by an automatic sampler or it's done  
11          by car-top sampling.  We have none in play here,  
12          but, for example, we have a few load-outs where  
13          the coal is loaded with end-loaders, and so that  
14          gets to be a little bit of a different process.  
15          But, yeah, it would be on a mine-by-mine basis,  
16          and it would be whoever's in charge of the  
17          load-out at the mine.

18         BY MS. SCHULTZ:

19          Q.    And how do the people that are working  
20          the load-out for a particular shipment know what  
21          sampling procedures need to be followed in order  
22          to meet the contractual obligations of Southern  
23          Coal Sales Corporation?

24          A.    So, usually, it involves an automatic  
25          sampler, and so they just know that the

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1       automatic sampler needs to be activated or  
2       operational. And they coordinate with the lab,  
3       whoever the particular lab is, to make sure the  
4       lab's there to pick up the bags that are grabbed  
5       by the automatic sampler.

6               Q.    Okay. I want to move for a second  
7       away from sampling of the load-out. Before the  
8       coal arrives -- and I'm talking about, just for  
9       the purpose of these questions, coal that was  
10      shipped from Southern Coal Sales Corporation  
11      to Algoma in 2016, let's start with Coal  
12      Mountain, --

13             A.    Okay.

14             Q.    -- so for those shipments, before the  
15      coal reached the load-out point and was shipped  
16      to Algoma, was there testing that was done on  
17      that coal prior to load-out?

18             A.    It's possible. We don't always test  
19      coal in the -- what we call the mine pit, which  
20      is where it's uncovered, but sometimes when  
21      we are encountering a first cut, it's, like,  
22      the first cut that you make on the side of the  
23      mountain, that coal will be sampled in the pit  
24      to see if it's oxidized. And once we determine  
25      the limits of the oxidation, we don't,

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1 typically, test beyond that. But there is some  
2 in-pit testing.

3 Q. Okay. And Coal Mountain, am I correct  
4 that it produced both metallurgical coal and  
5 steam coal?

6 A. Yes.

7 Q. And within a particular seam, do both  
8 types of coal come out of the same seam, or are  
9 they separate seams?

10 A. Typically, it's a seam-by-seam basis,  
11 so we know that, like, the Number 2 gas seam is  
12 always metallurgical coal. There's, like, 10  
13 seams on that mountain. Normally, the further  
14 down you go, the better quality the coal is  
15 going to be, so the upper seams, typically, tend  
16 to be steam coal. But within a seam, it's rare  
17 that you would have met and steam. But you do  
18 run into some oxidation, that I talked about  
19 earlier, and so that could render some met coal  
20 -- that oxidation could render some met coal not  
21 suitable for a met coal order.

22 Q. At Coal Mountain, how did Southern  
23 -- I guess I'm not sure whether it's Southern  
24 Coal Sales Corporation, I'll start there, ensure  
25 that, to the extent it was mining both steam

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1 coal and met coal, that that coal didn't get  
2 intermingled?

3 A. So, typically, that would be more  
4 Dynamic Energy as the operator.

5 Q. So the operator is doing that work?

6 A. Yeah. But the operator would keep  
7 those coals segregated. Either -- there's a  
8 couple ways to do it -- you can leave the steam  
9 coal and/or the met coal, but if you know your  
10 next three or four loadings are all steam coal,  
11 you wouldn't take the met coal to the load-out  
12 yet, you would leave it in the pit, and  
13 vice-versa, so you could try to keep those coals  
14 segregated.

15 Q. For testing that was done prior to  
16 load-out, is that something Southern Coal does  
17 internally or sends out to a lab?

18 A. We have the ability to do it  
19 internally at some of the operations. At Coal  
20 Mountain we could test for minimal things, like  
21 ash. But to test oxidation and things like  
22 that, you would send that out to a third party.

23 Q. What about Paragon?

24 A. Paragon would be similar. We could do  
25 some limited testing at Paragon. Again, that

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1 would be more for ash. But if you were wanting  
2 to see if the coal was oxidized or not, which  
3 was not an issue at Paragon, as much as it could  
4 be at Coal Mountain, but normally that coal  
5 -- or that sample would be sent out to a third  
6 party.

7 Q. Do you know which third party was  
8 performing that service for Coal Mountain in  
9 2016?

10 MR. ROBECK: If it was.

11 MS. SCHULTZ: If it was ... I  
12 thought he testified that they couldn't test for  
13 oxidation and they needed to, from time to time,  
14 test for oxidation?

15 MR. ROBECK: He said they would test  
16 before load-out, occasionally. He didn't say  
17 whether it was or was not.

18 BY MS. SCHULTZ:

19 Q. Okay. To your knowledge, did you test  
20 for oxidation at Coal Mountain in 2016?

21 A. I don't know. It is possible, though.

22 Q. Okay. Do you know what company would  
23 have provided that testing services in 2016?

24 A. Not specifically in that timeframe,  
25 because I don't know if we did or didn't.

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1                   Q.    Okay.  Would Southern Coal  
2                   maintain records of that sort of testing, or  
3                   the Justice-owned company that owned the mine at  
4                   that time?

5                   A.    Possibly, but that analysis  
6                   wouldn't be used for any other purpose, other  
7                   than determining whether it was oxidized or not.  
8                   So I don't know that we would.  I think once the  
9                   job got the report back that either it was or  
10                  wasn't, I think that there's really not much  
11                  more need for it at that point.

12                  Q.    Okay.  So as you sit here today you're  
13                  just not sure whether --

14                  A.    Not in that time period.

15                  Q.    Okay.  Now, you testified previously  
16                  there was an automatic sampler that was in use  
17                  at Coal Mountain; is that correct?

18                  A.    That is correct, yes.

19                  Q.    Okay.  Do you know, was that sampler  
20                  certified as complying with ASTM standards?  
21                  And I'm going to start and say, has it ever been  
22                  certified, and then ask you particularly with  
23                  respect to in 2016?

24                  A.    Yes, I do believe it has been  
25                  certified before.

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1 Q. And when was it certified?

2 A. We don't know the specific date. It's  
3 prior to 2016. It may be significantly prior to  
4 2016. In talking to Mr. Sarver, it wasn't clear  
5 to him when the certification took place.

6 Since that time, he's relied upon the  
7 various labs that have sampled the coal at Coal  
8 Mountain whether it was ineffective or not, and  
9 that's been Mineral Labs and SGS, and he said  
10 they've never had a problem with it. So no  
11 formal certification since that time, but  
12 Mr. Sarver believes it was certified at one  
13 time.

14 Q. And certified by a third party?

15 A. Yes.

16 Q. Okay. Any idea who that third party  
17 was?

18 A. I'll be honest with you, he took a  
19 guess and thought it might be a company called  
20 Kanawha Scales, but he could not tell me  
21 definitively.

22 Q. What was that company name? I'm  
23 sorry.

24 A. Kanawha.

25 Q. There are no records, though, in the

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1 possession of either Southern Coal Sales  
2 Corporation or the entity owning and operating  
3 the mine that showed such a certification?

4 A. Correct.

5 Q. You searched for those records but you  
6 couldn't find them?

7 A. We couldn't find them.

8 Q. Okay. So as we sit here today,  
9 there's no records reflecting at least that the  
10 automatic sampler at Coal Mountain was certified  
11 and complied with ASTM standards; is that  
12 correct?

13 A. No records, correct.

14 Q. Okay. But it's Mr. Sarver's belief  
15 that it did?

16 A. That it was once certified, and he  
17 does believe it complies with ASTM. And for  
18 that understanding he has relied on the various  
19 labs that have sampled at Coal Mountain over the  
20 years.

21 Q. And which particular ASTM standard did  
22 it comply with?

23 A. That part -- I don't know that anyone  
24 on our side knows the specifics of when you look  
25 at the ASTM standards what it complies with. I



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1 think that they rely on the labs to tell them  
2 whether they believe the sampler is sufficient  
3 for purposes of allowing the sample to qualify  
4 as an ASTM sample.

5 Q. Now, Paragon also used an automatic  
6 sampler, correct?

7 A. Yes.

8 Q. Was that sampler certified at any  
9 point in time?

10 A. We have not been able to locate any  
11 records as to certification.

12 Q. And does Mr. Sarver have any  
13 recollection or understanding as to whether  
14 it had been certified?

15 A. It's very similar. On that one he has  
16 relied on the labs that do the sampling there.  
17 He said they've never complained about it as  
18 not being sufficient to allow the samples to  
19 qualify. But he did not have an understanding  
20 as to whether or not a -- he has always  
21 understood it to be certified, but when I asked  
22 him about a formal certification he was unaware  
23 of one.

24 Q. Okay. Now, did anyone at Southern  
25 Coal Sales Corporation specifically instruct, in

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1           this case -- let me step back for a second.

2                       Would you agree with me that Mineral  
3           Labs was the third party that performed testing  
4           and analysis for the coal that Southern Coal  
5           Sales Corporation shipped to Algoma in 2016?

6           A.     Yes.

7           Q.     Okay. Did anyone at Southern Coal  
8           Sales Corporation provide instruction to Mineral  
9           Labs in 2016 to confirm that ASTM standards were  
10          being followed with respect to the sampling that  
11          was done at the Coal Mountain Mine?

12          A.     Yes. I believe Mr. Sarver did that.

13          Q.     Okay. And do you know when he did  
14          that?

15          A.     I just think it was -- one, when  
16          I talked to Mr. Sarver, I think it's generally  
17          understood between him and the labs that the  
18          parties expect the sample to be qualified under  
19          ASTM standards. Whether that's a car-top  
20          sample, whether it's an automatic sampler or  
21          whatever method, if the ASTM can be met, that's  
22          what the goal is.

23          Q.     Any idea who, particularly, at Mineral  
24          Labs he had that general understanding with?

25          A.     He dealt with three or four different

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1 people there. I think most of his high-level  
2 conversations were with Rodney Campbell.

3 Q. Okay.

4 A. I can't remember the other -- I know  
5 of two others, but I can't remember their names  
6 offhand.

7 Q. Same is true of Paragon, Southern Coal  
8 had a general understanding with Mineral Labs  
9 that sampling was supposed to comply with ASTM  
10 Standards, is that a fair?

11 A. I think that's fair, yes.

12 Q. Okay. This was previously marked in  
13 Mr. Campbell's deposition as Exhibit 8. For the  
14 record it's ALGOMA00014113 through 14127. Take  
15 a second to look through this and tell me when  
16 you're ready.

17 A. Okay.

18 Q. Okay. So if you look at the page that  
19 is 14114 through the end of the document, would  
20 you agree that this appears to be a certificate  
21 of analysis for Permit Number M359G for Coal  
22 Mountain Mine?

23 A. Yes.

24 Q. Okay. Have you looked at these  
25 sorts of certificates of analysis before you

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1 understand what the document is, generally?

2 A. Yes.

3 Q. Okay. If you look a third of the way  
4 down the page you see where it says, sampled by  
5 customer?

6 A. Yes.

7 Q. Okay. I'll tell you that Mr. Campbell  
8 at Mineral Labs previously testified that that  
9 means that Southern Coal took the sample, not  
10 Mineral Labs. Would you agree that that's  
11 accurate?

12 MR. ROBECK: Well, I mean, there's  
13 more details to it than that.

14 THE WITNESS: I can't agree with that  
15 as a blanket statement.

16 BY MS. SCHULTZ:

17 Q. What do you mean by a blanket  
18 statement?

19 A. Well, I think there are instances  
20 where they have marked, by customer, before and  
21 they clearly were there, and so I'm not sure why  
22 they did that. I think it is just something  
23 that has happened before, so I can't say a  
24 blanket statement, sample by customer, means  
25 that.

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1                   And the other thing is anytime it's  
2                   sampled by an automatic sampler, I mean,  
3                   the mechanical sampler is the one sampling. So  
4                   there's -- there's not a -- there's not a person  
5                   sampling, per se. So I just -- I can't agree  
6                   with that as a blanket statement.

7                   Q.    Okay. Let me step back for a second.

8                   A.    Okay.

9                   Q.    So the automatic sampler, tell me  
10                  if I'm characterizing this correctly, but it,  
11                  literally, is automatic. And every so often  
12                  it takes part of the shipment and puts it in a  
13                  bucket, should we say, for lack of a better  
14                  word?

15                  A.    Sure.

16                  Q.    Okay. And that's something that  
17                  there's not a person that's physically running  
18                  the sampler, it occurs once they turn it on and  
19                  happens during the entire time the load-out is  
20                  proceeding. Is that fair?

21                  A.    Typically, yes.

22                  Q.    Okay. Is there -- Southern Coal  
23                  -- during this time period, 2016 at Coal  
24                  Mountain, was there a Southern Coal employee or  
25                  a employee of the entity that owned or operated

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1 the mine that watched the sampler work for each  
2 of the shipments?

3 A. Not a single person.

4 Q. Okay.

5 A. At each one of the load-outs, I mean,  
6 it depends on time of day who's there, who's  
7 operating the load-out, things like that. I  
8 mean, there would be a person at the mine,  
9 it would be a person that works at the load-out,  
10 that would make sure the sampler's on. If there  
11 was a problem with it they would be able to,  
12 hopefully, identify it, if it was a simple  
13 problem, fix it, but not -- it's not a single  
14 person.

15 Q. So not the same individual each  
16 and every time, but there is a person for each  
17 shipment that's assigned with that task, is that  
18 fair?

19 A. Yeah. I mean, typically, whoever is  
20 operating the load-out whenever a train is being  
21 loaded, one of their responsibilities would be  
22 to make sure that the automatic sampler is  
23 operating and that samples are being collected.

24 Q. And was it Southern Coal's direction  
25 to Mineral Labs, then, in 2016, that a Mineral

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1 Labs employee should have also been in the room  
2 watching the automatic sampler work during  
3 the entirety of the load-out for a particular  
4 shipment at Coal Mountain?

5 A. I mean, I think, you know, it's what  
6 Mineral Labs does day in and day out. I don't  
7 think we would tell them how to do their job,  
8 per se, but I think we would call them and tell  
9 them a train is loading at a certain time and  
10 that they needed to be there for the sampling of  
11 the coal to say that someone was specifically,  
12 you know, instructing them, that probably -- it  
13 probably wasn't that formal, because, like I  
14 said, that's what these guys at Mineral do day  
15 in and day out. They know what they're supposed  
16 to do.

17 Q. But that was Southern Coal's  
18 expectation, then, that that's what Mineral  
19 Labs would do, be there for the whole process?

20 A. In the ordinary course, that  
21 -- absolutely.

22 Q. Okay.

23 A. They would expect Mineral Labs to be  
24 there.

25 Q. Now, I'm going to represent to you

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1           that Mr. Campbell at Mineral Labs testified that  
2           there were times that they weren't there for  
3           shipments to Algoma in 2016, that they weren't  
4           there at all when the train was being loaded;  
5           they came later and just picked up a sample that  
6           was provided to them. Do you have any reason to  
7           believe that's inaccurate?

8           A.     That happens from time to time. A  
9           train is supposed to show up on a certain day.  
10          It doesn't show up when expected. It shows up  
11          in the middle of the night. Mineral Labs, or  
12          whoever the lab is, can't always get there right  
13          away. Sometimes you have to make a decision, if  
14          you can't load a train right away, the railroad  
15          may pull it and you may decide to load it so the  
16          railroad doesn't pull it.

17          And so, I mean, if Mr. Campbell said  
18          that happened, it does happen from time to time,  
19          so I don't doubt him on that.

20          Q.     So how do we know for a particular  
21          shipment, then, whether Mineral Labs was  
22          involved in any way with the sampling or whether  
23          they showed up after the fact and just took a  
24          bag, if you will, of the sample that was pulled  
25          for a particular shipment? How do we tell that?



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1           A.    Well, first of all, we think that the  
2           situation you and I just described is not the  
3           norm. I think that's in situations when Mineral  
4           Labs could not get there on a timely basis and a  
5           decision had to be made. Because I don't think  
6           their records are always consistent, I don't  
7           think you can solely rely on it saying sampled  
8           by customer to determine whether Mineral Labs  
9           was there or not.

10          Q.    Okay. What records do we rely on,  
11          instead, then, of Southern Coal or the entity  
12          that owns or operates the mine to show us  
13          Mineral Labs' records are inaccurate as to who  
14          took the sample?

15          A.    I'm not aware of any other records.

16          Q.    Okay.

17          A.    So it would be the people that were  
18          there or the people that were in charge of  
19          scheduling Mineral Labs. But I'm not aware of  
20          any other written records.

21          Q.    And how do we know who those people  
22          were for a particular shipment, the person that  
23          was onsite at the mine that was supervising the  
24          sampling of the coal?

25               MR. ROBECK: You mean whether it was

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1 a person from Mineral Labs or a person from  
2 Southern Coal?

3 BY MS. SCHULTZ:

4 Q. No. I think what Mr. Ball testified,  
5 and please correct me if I'm wrong, is that the  
6 only person that would be able to disagree with  
7 what is in Mineral Labs' certificate of analysis  
8 as to who took the sample is the person from the  
9 mine that was onsite for the load-out  
10 supervising the load-out, right?

11 A. Well, I don't know if it would be the  
12 only person.

13 Q. Okay.

14 A. But, I mean, that would be a person,  
15 that if they had a specific recollection, which  
16 I'm sure they wouldn't, at this point, given how  
17 many trains load-in at a load-out, and this is  
18 from, you know, three years ago, but that would  
19 be a person that could dispute that.

20 MR. ROBECK: And Mr. Campbell also  
21 testified that you could ask the sampler that  
22 was actually there, too.

23 MS. SCHULTZ: You mean the individual  
24 from Mineral Labs?

25 MR. ROBECK: Yeah. Right.

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1 MS. SCHULTZ: Okay. But he also  
2 testified that what -- the individual at Mineral  
3 Labs would have filled out the certificate of  
4 analysis in a particular way such that it would  
5 indicate whether they observed the sample being  
6 taken.

7 MR. ROBECK: He said that that's what  
8 he believed the records indicate, but that if  
9 there was a discrepancy in that, you'd have to  
10 go to the person or the backup documents that  
11 they didn't produce.

12 BY MS. SCHULTZ:

13 Q. Let me ask the question a different  
14 way here.

15 So is there a particular shipment  
16 that Southern Coal Sales Corporation made to  
17 Algoma in 2016 that you can identify as you  
18 sit here today where Mineral Labs said that  
19 the sample was taken by the customer, meaning  
20 Southern Coal Sales Corporation, but you believe  
21 it was not?

22 MR. ROBECK: So you're talking about  
23 every single train shipment?

24 MS. SCHULTZ: What I'm trying to  
25 understand is, you know, he said that Mineral

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1 Labs' records are not always accurate; he  
2 believes that to be true; that when they say  
3 they're sampled by a customer there's times when  
4 that's not accurate. I'm asking if there's  
5 anyone that he can identify where that's true.

6 MR. ROBECK: If you can do that right  
7 now, go ahead.

8 BY MS. SCHULTZ:

9 Q. I mean, to be clear, one of the topics  
10 for the deposition today was the sampling that  
11 was done for each and every shipment to Algoma.  
12 So if you're saying that Mineral Labs' records,  
13 which is the only record that we have of who did  
14 the sampling, written record, is incorrect, I'm  
15 wondering which ones are incorrect, and how you  
16 know that they are?

17 A. Well, --

18 MR. ROBECK: Go ahead.

19 THE WITNESS: -- I can't recall  
20 a specific shipment off the top of my head,  
21 but my understanding is there are a couple -- at  
22 least a couple of shipments that were identified  
23 by Mineral Labs as being sampled by the  
24 customer, and they were there.

25 I think there are also instances where

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1 Mineral Labs has a certificate that says,  
2 sampled by customer, but I think we were  
3 invoiced for travel time and things like that.  
4 So I think in those instances they were clearly  
5 there.

6 BY MS. SCHULTZ:

7 Q. Well, they had to get there at  
8 some point to pick up the sample, right?

9 A. They --

10 Q. They tested it, right? They provided  
11 testing of something.

12 A. Yeah. They were there.

13 Q. So why wouldn't they bill you for  
14 travel time for the time it took them to come  
15 pick up whatever sample was provided to them?

16 A. I'm just saying, I think that's  
17 another document that could contradict the  
18 -- you're asking what evidence would we have to  
19 say to the contrary, a document that says they  
20 billed us for travel time would be a document  
21 that would contradict the fact they weren't  
22 there.

23 Q. Well, I mean, it wouldn't show that  
24 they were there during the load-out, would it?

25 A. It would show that they billed us for

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1 traveling there on that day.

2 Q. Right.

3 A. That's all I'm saying.

4 Q. Okay. Fair enough.

5 A. I mean, I don't think it says,  
6 definitively, one way or the other, but it  
7 proves that they were there.

8 Q. To your knowledge, were there any  
9 instances in the 2016 shipments from Southern  
10 Coal to Algoma where Southern Coal delivered a  
11 sample directly to the lab?

12 A. Not that I'm aware of.

13 Q. Okay. The records that you were just  
14 testifying regarding that showed a travel time  
15 for existence from the lab, are those documents  
16 -- do you know whether those were produced in  
17 this litigation?

18 MR. ROBECK: Could you read the  
19 question back, please?

20 THE REPORTER: Sure.

21 (Referred-to testimony read back.)

22 BY MS. SCHULTZ:

23 Q. Let me re-ask the question.

24 You just testified that you thought  
25 there were documents out there that showed that

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1 Mineral Labs billed Southern Coal for travel  
2 time from the lab to the load-out, right?

3 A. Right.

4 Q. Are you aware whether those documents  
5 were produced in this litigation?

6 A. I don't know.

7 Q. Okay. And where are those documents  
8 kept within Southern Coal?

9 A. You have to stop me here, if you think  
10 I should stop, but I have this understanding  
11 from the prior counsel in this case, Mr. Hunter  
12 from Frost Brown Todd.

13 MR. ROBECK: I think invoices were  
14 produced. My understanding is invoices were  
15 produced.

16 MS. SCHULTZ: Okay. Okay.

17 BY MS. SCHULTZ:

18 Q. And the testimony that you've given,  
19 we started talking about Coal Mountain, but I  
20 want to know, is the same true with respect to  
21 load-outs at Paragon, that you're not sure or  
22 you -- you're not sure that Mineral Labs'  
23 certificate of analysis are accurate as to who  
24 took the sample?

25 A. Well, I think in all instances the

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1 sample was physically taken by the automatic  
2 sampler. Whether they were physically there to  
3 pick up the bag or not, I think that my earlier  
4 statements apply to Coal Mountain and Paragon.

5 Q. Okay. And let me make sure that we're  
6 not speaking past one another. With respect to  
7 shipments in 2016 from Southern Coal to Algoma  
8 from Coal Mountain, is it your testimony that  
9 you believe Mineral Labs was present onsite  
10 during the load-outs to observe the automatic  
11 sampler working; is that right?

12 A. Yes.

13 Q. And is the same true of Paragon?

14 A. Yes.

15 Q. Okay. And was it a Southern Coal  
16 employee or a Mineral Labs employee that would  
17 have physically taken the sample out of the  
18 sampling room and left the facility with it, if  
19 you will, for Coal Mountain, let's start with?

20 A. Typically, it would be a Mineral Labs  
21 employee. Do I think there are instances where  
22 a Dynamic Energy or an A&G Coal employee would  
23 do it if Mineral Labs couldn't get there quick  
24 enough or something like that, and we had to  
25 load a train in one of those instances that I'm



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1 talking about, I think there are probably  
2 instances of both examples of what you described  
3 happening. But in the ordinary course, it  
4 should be Mineral Labs taking it.

5 Q. Okay. And I apologize if I already  
6 asked this question, but Mineral -- Mr. Campbell  
7 at Mineral Labs testified that, to the extent  
8 they observed the automatic sampler working,  
9 they would indicate as much in the certificate  
10 of analysis.

11 Do you have any reason to -- to  
12 disagree with their records as to that point?

13 A. No.

14 MS. SCHULTZ: Okay. Do you want to  
15 take a quick break, a couple minutes?

16 (Recess taken.)

17 BY MS. SCHULTZ:

18 Q. For Coal Mountain in 2016, do you know  
19 who the employees were that worked the load-out?

20 A. I think Tiger Lambert was responsible  
21 for the entire job, and I think the person that  
22 worked with Tiger that would help with coal  
23 shipments was Todd Bradford. As far as, like,  
24 hourly workers and things like that, I don't  
25 know who those would have been.

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1 Q. What about Paragon?

2 A. Paragon was the person that would  
3 have been in charge. I know Scott Mead was the  
4 primary person in charge for a while, but Scott  
5 left at some point. I'd have to check. I don't  
6 remember when Scott left, but he definitely  
7 would have been the person in charge while he  
8 was there.

9 Q. Okay. And maybe I'm making this  
10 more formal than it is, but for Coal Mountain,  
11 for example, if a third party comes onsite, do  
12 they have to sign in or anything like that?

13 A. Technically speaking, from MSHA you're  
14 supposed to, but if it's someone like a lab who  
15 is there regularly, that tends to get a little  
16 more relaxed versus like if someone that just  
17 showed up to go onsite. So it really depends on  
18 who the third party is.

19 Q. Okay. So there's not necessarily a  
20 written record if the lab shows up for either  
21 Coal Mountain or Paragon what particular time  
22 they came on that day?

23 A. No.

24 MS. SCHULTZ: Okay. That's all I  
25 have.

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1 MR. BOLLIN: Just a few more  
2 questions.

3 THE WITNESS: Okay.

4 FURTHER EXAMINATION

5 BY MR. BOLLIN:

6 Q. Do you know the coal production  
7 capacity of the mines from which Southern Coal  
8 Sales Corporation obtained coal to sell to  
9 Algoma in 2015, '16 and '17?

10 MR. ROBECK: Are you talking about the  
11 ones that are owned by Justice Company, --

12 MR. BOLLIN: Sure.

13 MR. ROBECK: -- because there was  
14 other coal that was purchased?

15 MR. BOLLIN: Sure. Understood. Only  
16 those owned by Justice Companies.

17 THE WITNESS: So capacity at the mines  
18 is, typically, dictated by what the market will  
19 allow. Some of these mines, you know, for  
20 example, Tams in 2015 [REDACTED] running at a [REDACTED] to  
21 [REDACTED] ton run rate. Tams is capable of running  
22 at [REDACTED] times that, if the market  
23 justified it. And what I mean by the market  
24 justifying it is there is tougher mining  
25 conditions on certain parts of the permit that

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1 have higher ratios and things like that, but if  
2 the market is high enough that you can mine \$85  
3 coal, then the capacity can go up.

4 As we were mining it, Coal Mountain's  
5 capacity was -- it varied, but it was in the  
6 range of [REDACTED] to [REDACTED] per month.

7 BY MR. BOLLIN:

8 Q. What time is this?

9 A. The first half of 2015, we had just  
10 reacquired Coal Mountain. We acquired it in  
11 February of 2015, and it took us three or four  
12 months to get things up and running because it  
13 had been completely idled by the prior owners.  
14 So that run rate would have started taking  
15 effect late 2015, and that would have been for  
16 all of 2016 up until we sold it in January of  
17 2017.

18 Q. And how did you determine the run  
19 rate?

20 A. That's just based on the amount of  
21 equipment we had available, the mining ratio.  
22 You know, it's just a -- it's a calculation  
23 based on the machines can move a certain amount  
24 of material per hour. And then, you know, we  
25 determined that number based on the amount of

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1 sales that we have, though, ultimately.

2 Q. So it's a backwards-looking number?

3 A. For the most part, yes.

4 Q. Do you make projections of what your  
5 capacity is?

6 A. No.

7 Q. What was the -- what was the  
8 production capacity for Paragon in 2015 and  
9 2016?

10 A. The mine that supplied Paragon is  
11 called A&G. We refer to it as A&G 21. And it's  
12 another example that it has coal reserves that,  
13 if the market is generous enough, you can -- you  
14 can mine at much higher run rates than what we  
15 were, but its capacity was anywhere from [REDACTED]  
16 to [REDACTED] tons per month.

17 Q. And, again, is that a  
18 backwards-looking number?

19 A. Pretty much, yes.

20 Q. Does that include, for example, time  
21 in 2016 during the summer when the main shovel  
22 was down at A&G?

23 A. Obviously, that would impact  
24 production. You know, we had a situation where  
25 we got a bad load of fuel at A&G that shut down,

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1           roughly, a half-dozen machines. You know, that  
2           impacts production. The numbers I'm giving you  
3           is, at its normal run rate, that's what its  
4           capacity would be. But, obviously, when the  
5           main shovel is down, that's going to severely  
6           impact production.

7           Q. Mr. Jay Justice testified previously  
8           that the overburden at A&G was much bigger, much  
9           more extensive than it was at Coal Mountain.  
10          Did you know that?

11          A. Yes.

12          Q. Okay. Where does the price point have  
13          to be in order for it to be profitable to mine  
14          from A&G?

15          A. What I just described to you is very  
16          small scale mining at A&G, and that's probably  
17          -- you know, that's the most you can mine when  
18          the market is less than a hundred dollars. If  
19          the market goes above a hundred dollars,  
20          A&G's capacity could be increased to [REDACTED] or  
21          [REDACTED] tons a month, but the ratio goes up  
22          significantly after that small amount of  
23          tonnage. But at the run rates we did in 2015  
24          and 2016, that's all that we could stand under  
25          those market conditions.

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1 Q. And when you say [REDACTED], you're  
2 talking about [REDACTED] a ton?

3 A. Yes.

4 Q. How did Southern Coal Sales  
5 Corporation know what coal was available to  
6 sell?

7 A. Well, from our exercise earlier today,  
8 you know that the management on the operations  
9 side and the sales side is similar, so I think  
10 it's more of a function of Jay Justice knowing  
11 how many tons could be sold and then having the  
12 production to meet the requirements.

13 Q. I've got a few mop-up questions from  
14 earlier, so I'm going to bounce around a little  
15 bit. If I lose you when I'm bouncing, let me  
16 know and I'll clarify.

17 A. Okay.

18 Q. Did Southern Coal Sales Corporation  
19 have insurance in 2016?

20 A. Just so I'm sure, like general  
21 liability insurance?

22 Q. Sure.

23 A. Yes.

24 Q. Okay. What kind of insurance did it  
25 have?

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1           A.    It's a structured program where the  
2           first -- I'm wanting to say the [REDACTED]  
3           dollars is self-insured, and then above that you  
4           have different layers of, like, a primary up to  
5           [REDACTED], then an excess policy up to [REDACTED] and  
6           then another excess policy up to, I think, [REDACTED]  
7           [REDACTED]

8                     You know, obviously, auto insurance  
9           and things like that would be a little  
10          different, but, yes, it is insured.

11          Q.    But that's for Southern Coal Sales  
12          Corporation?

13                 MR. ROBECK:  Are these mop-up  
14          questions all outside the scope of the topics  
15          for the 30(b)(6), or is it just that one and  
16          then you're going to go back inside the topics?

17                 MR. BOLLIN:  I'll take that as an  
18          objection.

19                 THE WITNESS:  Southern Coal Sales  
20          would be listed as a named insured on Southern  
21          Coal Corporations policy.

22                 MR. BOLLIN:  Thank you.

23          BY MR. BOLLIN:

24                 Q.    In April of 2016, reviewing the  
25          Southern Coal Sales Corporation's bank



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1 statements, it had a balance of [REDACTED] at the  
2 beginning and end of its -- of the month of  
3 April 2016, does that sound about right?

4 MR. ROBECK: From memory, from what we  
5 looked at earlier?

6 MR. BOLLIN: Well, every single month  
7 we looked at it was there, so, yeah, that's what  
8 I was doing.

9 MS. BYROADE: I mean, it says what it  
10 says. Do you have a question?

11 BY MR. BOLLIN:

12 Q. What was -- how could Southern Coal  
13 finance its obligations under the amending  
14 agreement with Algoma? Was it required to  
15 borrow, was it required to spend money from  
16 other Justice entities, or was it able to  
17 perform the agreement on its own?

18 A. I'm struggling with what obligations  
19 it would have, like monetary obligations to  
20 Algoma? I mean, its commitment was to deliver  
21 coal.

22 Q. Right. To fulfill its obligations to  
23 Algoma, it requires some outlay of cash, right?

24 A. I mean, for, like, scheduling trains  
25 or ...

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1 Q. That would be one.

2 A. Yeah.

3 Q. And Southern Coal did not have  
4 -- Southern Coal Sales Corporation did not have  
5 cash of its own to pay for the trains that it  
6 needed, correct?

7 MR. ROBECK: Objection; form.

8 This is all predicated on a beginning  
9 and ending monthly balance. That's --

10 MR. BOLLIN: You tell me.

11 THE WITNESS: Okay. I think I  
12 testified to this earlier. I think it depends  
13 on the timing of incoming receipts from coal  
14 sales. If they had adequate cash available at  
15 that time to pay for a train, they would do so.  
16 If they didn't, they would borrow it from either  
17 their parent company or an affiliate.

18 BY MR. BOLLIN:

19 Q. Aside from the agreements in  
20 lieu before, were there any other minutes of  
21 any other board meetings of Southern Coal Sales  
22 Corporation?

23 A. No.

24 MR. BOLLIN: Mark, what are we going  
25 to do about the ledger request?

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1 MS. BYROADE: On the record or going  
2 off the record?

3 MR. ROBECK: I don't care. We'll, you  
4 know, huddle and talk about it.

5 MR. BOLLIN: Okay. Well,  
6 unfortunately, I can't conclude the deposition  
7 without an opportunity to review those, the  
8 answer to --

9 MR. ROBECK: Well, I don't have it  
10 to hand to you right now, so that does matter.

11 MR. BOLLIN: I understand. That's why  
12 I'm trying to talk to you about it. That's all.

13 MR. ROBECK: Okay.

14 MR. BOLLIN: As you know, a lot of the  
15 questions that we asked today, the answer can be  
16 found there. So the question is, do we go to  
17 the Court together, or do I go to the Court  
18 alone?

19 MR. ROBECK: Well, I said that we  
20 would talk about it amongst ourselves. I'm not  
21 going to talk about it and then ignore you.

22 MR. BOLLIN: I appreciate that. I do.

23 MR. ROBECK: I'll let you know what  
24 we're going to do, and I'll let you know when  
25 we're going to do it.

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1 MR. BOLLIN: Okay. So subject to  
2 that, I don't have any further questions today.

3 Thank you.

4 MR. ROBECK: Okay.

5 (Deposition concluded -- 5:35 p.m.)  
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1 Stephen Wayne Ball

2  
3 C E R T I F I C A T E  
4

5 I do hereby certify that the aforesaid  
6 testimony was taken before me, pursuant to  
7 notice, at the time and place indicated; that  
8 said deponent was by me duly sworn to tell the  
9 truth, the whole truth, and nothing but the  
10 truth; that the testimony of said deponent was  
11 correctly recorded in machine shorthand by me  
12 and thereafter transcribed under my supervision  
13 with computer-aided transcription; that the  
14 deposition is a true and correct record of the  
15 testimony given by the witness; and that I am  
16 neither of counsel nor kin to any party in said  
17 action, nor interested in the outcome thereof.  
18

19 WITNESS my hand and official seal this  
20 8th day of November 2018.  
21

22 

23 Ryan K. Black  
24  
25